

Signed by the Governor

(May 11, 1979)

<b>H.B. 244</b>	Effective September 1, 1979
<b>H.B. 291</b>	Effective August 27, 1979
<b>H.B. 987</b>	Effective August 27, 1979
<b>H.B. 1737</b>	Effective immediately
<b>S.B. 339</b>	Effective September 1, 1979
<b>S.B. 343</b>	Effective August 27, 1979
<b>S.B. 375</b>	Effective August 27, 1979
<b>S.B. 504</b>	Effective immediately
<b>S.B. 538</b>	Effective immediately
<b>S.B. 576</b>	Effective August 27, 1979
<b>S.B. 599</b>	Effective immediately
<b>S.B. 629</b>	Effective August 27, 1979
<b>S.B. 724</b>	Effective immediately
<b>S.B. 919</b>	Effective immediately
<b>S.B. 1257</b>	Effective immediately

#### **SEVENTY-FIRST DAY**

(Tuesday, May 15, 1979)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blakc, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

A quorum was announced present.

The Reverend Mickey M. Loftis, Trinity Baptist Church, Corsicana, offered the invocation as follows:

Our Heavenly Father, because Thou art God, and there is none else, we invoke Thy blessings upon this Senate this day.

We pray, Heavenly Father, that Thou shalt guide them in all that they may do. We pray, Heavenly Father, that they shall look to Thee for leadership and for wisdom.

We pray, Heavenly Father, that they shall ever remember that they are representatives of the people, by the people and for the people, and shall never use their office, Heavenly Father, for personal gain.

We pray, Heavenly Father, that Thy shalt guide them in all issues they consider. And Father, while many politicians say you can't legislate tomorrow, Father, we just pray that they shall recognize that any law without moral dignity shall never profit this state nor its citizenry.

We pray, Heavenly Father, that You shall bless this day and use it, Heavenly Father, to furtherance of Thy causes in this earth.

Forgive our sins, cleanse us from unrighteousness, and bless and direct us in the paths of righteousness for Thy name sake, for we ask it in the name of Thy Son, Our Lord and Saviour Jesus Christ, who loved us and died to redeem us, and in His name we do pray. Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

### MESSAGE FROM THE HOUSE

House Chamber  
May 15, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

The House refused to concur in Senate amendments to House Bill No. 304 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Jones, Chairman; Emmett, Whalcy, Denton, F. Green

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 779 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1115 by a vote of 118 Ayes, 5 Noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 508 by a vote of 119 Ayes, 1 Noes, 1 Present - Not Voting.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 305 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1787 by a non record vote.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 491 adopted by a non record vote.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**REPORT OF STANDING COMMITTEE**

Senator Brooks submitted the following report for the Committee on Human Resources.

**S.B. 1298**

**S.B. 1110**

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

<b>S.C.R. 47</b>	<b>S.C.R. 54</b>	<b>S.C.R. 62</b>
<b>S.J.R. 18</b>		
<b>S.B. 9</b>	<b>S.B. 552</b>	<b>S.B. 775</b>
<b>S.B. 43</b>	<b>S.B. 575</b>	<b>S.B. 815</b>
<b>S.B. 186</b>	<b>S.B. 577</b>	<b>S.B. 834</b>
<b>S.B. 252</b>	<b>S.B. 619</b>	<b>S.B. 1122</b>
<b>S.B. 261</b>	<b>S.B. 623</b>	<b>S.B. 1160</b>
<b>S.B. 295</b>	<b>S.B. 625</b>	<b>S.B. 1187</b>
<b>S.B. 316</b>	<b>S.B. 667</b>	<b>S.B. 1209</b>
<b>S.B. 436</b>	<b>S.B. 710</b>	<b>S.B. 1239</b>

**SENATE BILL ON FIRST READING**

On motion of Senator Parker and by unanimous consent, the following bill was introduced, read first time and referred to the Committee indicated:

**S.B. 1320** by Parker State Affairs  
Relating to the application of nepotism laws.

**HOUSE BILLS ON FIRST READING**

The following bills received from the House were read the first time and referred to the Committee indicated:

**H.B. 2239**, To Committee on Economic Development.  
**H.B. 1725**, To Committee on Economic Development.  
**H.B. 15**, To Committee on Jurisprudence.  
**H.B. 1925**, To Committee on Human Resources.

**HOUSE CONCURRENT RESOLUTION 164**

The President laid before the Senate the following resolution:

**H.C.R. 164**, Commending The Honorable George H. Mahon.

The resolution was read.

On motion of Senator Short and by unanimous consent, the resolution was considered immediately and was adopted.

**SENATE CONCURRENT RESOLUTION 57 WITH  
HOUSE AMENDMENT**

Senator Harris called **S.C.R. 57** from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Amendment No. 1 - Rangel

Amend **S.C.R. 57** on page 2, line 5, by inserting the following language after "funds":

"and has succeeded to the duties and functions thereof by Executive Order dated April 2, 1979."

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

**SENATE BILL 472 WITH HOUSE AMENDMENT**

Senator Harris called **S.B. 472** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Salinas

Substitute the following for S.B. No. 472:

**A BILL TO BE ENTITLED****AN ACT**

relating to enforcement of the mixed beverage gross receipts tax.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**  
**SECTION 1.** Section 204.01, Alcoholic Beverage Code, is amended by adding Subsections (f)-(h) to read as follows:

(f) A permittee subject to the gross receipts tax on mixed beverages imposed by Section 202.02 of this code is not required to furnish a bond if for the preceding 36 months the permittee has paid all taxes and fees required by this code on or before the due date. A finding of deficiency under Section 202.09 of this code does not constitute a failure to pay a tax when due for purposes of this subsection or Subsection (g) or (h) of this section if the deficiency and any applicable penalty are paid within ten (10) days of the date of demand for payment by the Commission.

(g) An exemption under Subsection (f) of this section terminates and the permittee must furnish a bond if the permittee fails to pay a tax or fee imposed by this code on or before the due date.

(h) A permittee required to furnish a bond under Subsection (g) of this section is again entitled to exemption from the surety requirement if the permittee:

- (1) pays all delinquent taxes and fees and any applicable penalties; and
- (2) pays all taxes and fees required by this code on or before the due date for 36 consecutive months after the month in which the delinquent taxes and fees and the penalties are paid.

SECTION 2. Chapter 202, Alcoholic Beverage Code, is amended by adding Section 202.14 to read as follows:

Sec. 202.14. SUMMARY SUSPENSION. (a) If a permittee fails to file a return or make a tax payment as required by this chapter, including deficiencies under Section 202.09, the commission may summarily suspend the permit without a hearing. The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), does not apply to the commission in their enforcement and administration of this section.

(b) A suspension under this section takes effect on the 3rd day after the date on which the notice of suspension is given. The notice shall be given to the permittee, his agent, servant, or employee by registered or certified mail if not given in person.

(c) The commission shall terminate a suspension made under this section when the permittee files all required returns and makes all required tax payments, including payment of any penalties that are due.

SECTION 3. For purposes of Section 204.01(f)-(h), Alcoholic Beverage Code, the 36 month period immediately preceding the effective date of this Act is counted in determining whether a permittee is entitled to an exemption from the requirement of furnishing a surety bond.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Harris moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Parker, Patman, Price, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Absent: Jones of Taylor, Ogg, Santiesteban.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 491 ADOPTED**

Senator Parker called from the President's table the Conference Committee Report on **S.B. 491**. (The Conference Committee Report having been filed with the Senate and read on May 14, 1979.)

On motion of Senator Parker, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 0.

Absent: Jones of Taylor, Ogg, Santiesteban.

**SENATE BILL 906 WITH HOUSE AMENDMENT**

Senator McKnight called **S.B. 906** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Cain

Amend S. B. No. 906 as follows:

(1) Strike section 4 and substitute the following:

Sec. 4. Subtitle C, Title 3, Texas Education Code, as amended, is amended by adding Chapter 76 to read as follows:

**CHAPTER 76. THE UNIVERSITY OF TEXAS AT TYLER**

Sec. 76.01. **ESTABLISHMENT.** The University of Texas at Tyler is a co-educational institution of higher education within the University of Texas System. It is under the control and management of the board of regents of the University of Texas System.

Sec. 76.02. **ROLE AND SCOPE.** The institution shall offer junior and senior undergraduate programs and graduate programs, both of which are subject to the authority of the Coordinating Board, Texas College and University System.

Sec. 76.03. **PRESIDENT.** The board may appoint and remove the president, any faculty member, or other officer or employee of the institution. The president is the executive officer of the institution and is responsible for its general management. The president shall recommend a plan of organization and orderly course development for the institution.

Sec. 76.04. **SUITS; VENUE; CITATION.** The board may sue and be sued in the name of the institution. Venue is in Smith or Travis County. The institution may be impleaded by service of citation on its president, and legislative consent to suits against the institution is granted.

Sec. 76.05. **GIFTS AND GRANTS.** The board may accept donations, gifts and endowments for the institution. They are to be held in trust and administered by the board according to the purposes, directions, limitations, and provisions declared in writing in the donation, gift, or endowment. The provisions of the donation, gift, or endowment shall be followed to the extent that they are not inconsistent with the laws of this state or with the objective and proper management of the institution.

Sec. 76.06. **MANAGEMENT OF PROPERTY.** The board is vested with the exclusive management of all property owned by the institution. The board may make any agreements necessary to the effective management of the institution's property. All money received shall be deposited in the state treasury to the credit of a special fund, that may be invested, and the principal and income of the fund may be expended, on appropriation by the legislature, for the administration of the institution.

(2) Strike Sec. 5, and renumber sections 6, 7, and 8 as sections 5, 6, and 7.

The amendment was read.

Senator McKnight moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Jones of Taylor, Santiesteban.

### SENATE BILL 374 WITH HOUSE AMENDMENTS

Senator Schwartz called **S.B. 374** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Committee Amendment No. 1 - Nabers

Amend **S.B. 374** as follows:

At line 17, Page 1, insert after the second comma and before the word "is" the words "has not resulted in a final conviction and," to make Subdivision (2) read: "(2) he has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered supervision under Article 42.13, Code of Criminal Procedure, 1965, as amended, nor a conditional discharge under Section 4.12 of the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) [has been dismissed]; and

#### Committee Amendment No. 2 - Nabers

Amend **S.B. 374** as follows:

At line 26, page 2, and lines 1 and 2, page 3, delete the sentence "Any petitioner or agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases."

After line 24, page 4, insert the following:

Sec. 6. The petitioner may appeal the court's denial of an expunction order as to all or some of the records and files stated in the petition. An official, agency, or other entity named in the petition may appeal an expunction order, and an expunction order is suspended until the judgment of the court of criminal appeals is received by the court. The court of criminal appeals has jurisdiction to determine whether the trial court erred in issuing or denying an expunction order.

#### Amendment No. 3 - Nabers

Amend S.B. No. 374 by renumbering Section 3 as Section 4 and inserting Section 3 to read as follows:

**SECTION 3.** Any law or portion of a law that conflicts with Chapter 55, Code of Criminal Procedure, 1965, as amended, is repealed to the extent of the conflict.

#### Amendment No. 4 - Gibson

Amend S.B. No. 374 on page 1 by inserting between "arrested" and the semicolon on line 16, "or, if an indictment or information was presented, it has been dismissed and the court finds that the dismissal was because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense".

The amendments were read.

Senator Schwartz moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 374** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Schwartz, Chairman; Doggett, Farabee, Mauzy and Mengden.

### **SENATE BILL 530 WITH HOUSE AMENDMENT**

Senator Mauzy called **S.B. 530** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Coleman

Amend **S. B. 530**, 1st printing by striking all below the enacting clause and substituting the following:

Section 1. Section 54.051 (h) and (i), Texas Education Code, as amended, are to read as follows:

(h) Tuition for students who are citizens of any country other than the United States of America is the same as tuition required of other nonresident students. However, the governing board of an institution of higher education may set a lower fee for a student who is a citizen of the Republic of Mexico, based on financial need, as authorized by rules and policies of the Coordinating Board, Texas College and University System. The lower fee in any case shall be not less than \$14 per semester credit hour, and the total of such charge shall be not less than \$200 per semester or 12 week summer session and not less than \$100 per 6 week summer term. The authorization of this shall not exceed 1 1/2% of the total institutional enrollment for the fall semester of a given year.

(i) Tuition for students who are citizens of any country other than the United States of America registered in a medical or dental branch, school or college is the same as tuition required of other nonresident students.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Mauzy moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 530** before appointment.

There were no motions offered.



The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mauzy, Chairman; Schwartz, Santiesteban, Jones of Harris and Parker.

#### **SENATE BILL 432 WITH HOUSE AMENDMENT**

Senator Farabee called **S.B. 432** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Messer

Amend **S.B. 432**, Page 2, Line 2, after the word "during" by adding the words "a substantial period of" and on Page 2, Lines 3 and 4, by deleting the words "or shall have failed to contribute substantially to the support of the deceased worker".

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

#### **SENATE BILL 613 WITH HOUSE AMENDMENTS**

Senator Longoria called **S.B. 613** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Allred

AMEND SENATE BILL 613 by deleting the figure "\$5,000" on page 2, line 12, and substituting the figure "\$20,000".

Committee Amendment No. 2 - Allred

AMEND SENATE BILL 613 by adding the following sentence to Section 6(a), on page 5, at line 8: "The amount paid shall not exceed 90% of the amount paid a district court judge having jurisdiction in Hidalgo County."

The amendments were read.

Senator Longoria moved to concur in the House amendments.

The motion prevailed.

#### **SENATE BILL 220 WITH HOUSE AMENDMENTS**

Senator Jones of Harris called **S.B. 220** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

## Committee Amendment No. 1 - Maloney

Amend **S. B. 220**, Page 2, line 17, by adding new subsections (1) and (2) as follows:

“(1) the judgment was rendered in a foreign country which does not grant recognition to judgments of the State of Texas which conform to the definition of foreign country judgments as provided in Section 2, Subsection (2) of this act;

(2) the judgment was rendered prior to the effective date of this act;”  
and renumbering the subsequent subsections accordingly.

## Amendment No. 2 - Heatly

Amend S. B. No. 220 by striking Subsection (a) in Section 5 of the bill and substituting the following:

(a) A foreign country judgment is not conclusive if:

(1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the judgment was rendered in a proceeding in a court of any country other than the country in which the event occurred that gave rise to the cause of action on which the judgment is based;

(3) the foreign country court did not have personal jurisdiction over the defendant; or

(4) the foreign country court did not have jurisdiction over the subject matter.

The amendments were read.

Senator Jones of Harris moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 220** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones of Harris, Chairman; Farabee, Ogg, Meier and Santiesteban.

**SENATE BILL 979 WITH HOUSE AMENDMENT**

Senator Jones of Taylor called **S.B. 979** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

## Floor Amendment No. 1 - Lewis

Amend S.B. No. 979 by adding a new section thereto to be appropriately numbered; said new section to read as follows:

**SECTION 1.** Title 79, Interest-Consumer Credit-Consumer Protection, Chapter 274, Acts of the 60th Legislature, Regular Session, 1967, as last

amended by Chapters 104 and 830, Acts of the 65th Legislature, 1977 is amended by adding a new Chapter, to be designated Chapter 6A, to read as follows:

"Sec. 1. Scope. This Chapter regulates the credit sale of manufactured homes as defined herein, mobile homes being previously regulated by either Chapter 7 of Title 79, Revised Civil Statutes of Texas, 1967, and non-mobile home manufactured housing being previously regulated by Chapter 6 of Title 79, Revised Civil Statutes of Texas, 1967.

"Sec. 2. Definitions.

"A. 'Manufactured home' means any structure, transportable in one or more sections on either a permanent or temporary chassis or other conveyance device, which is eight body feet or more in width and is 32 body feet or more in length, and which is manufactured at a location other than the home-site and which is designed to be a single or multi-family residence when transported to the home-site and which is designed to be connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein as well as any furniture, appliances, drapes, carpet, wall covering or any other items which are attached to or contained in the home and which are included in the cash price and sold in conjunction with the home. Such term shall include all mobile homes and modular homes which satisfy the above definition.

"B. 'Customer' means a person to whom credit is extended for the purchase of a manufactured home and includes a comaker, endorser, guarantor or surety for such other person who is obligated to repay the extension of credit.

"C. 'Creditor' means a person who in the ordinary course of business regularly sells manufactured homes or extends or arranges for the extension of credit for the purchase of a manufactured home for the use by the customer, which is payable by agreement in more than four installments, or for which the payment of a finance charge is or may be required. The term includes both the seller and, if known at the time of credit extension, the financier of the credit sale, even if the financier does not regularly extend credit as described above.

"D. 'Credit Sale' means any retail transfer of title of a manufactured home pursuant to an installment contract payable in more than four installments, or for which the payment of a finance charge is or may be required, and with respect to which credit is extended or arranged by the creditor. The term includes any contract in the form of a bailment or lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the manufactured home involved and it is agreed that the bailee or lessee will become, or for no other consideration or for a nominal consideration, has the option to become, the owner of the property upon full compliance with his obligations under the contract. The term does not include a transfer of title of a manufactured home in which the proceeds for said transfer are acquired by the customer pursuant to a loan, nor does it include a transfer for wholesale purposes in which the customer purchases the manufactured home for the purpose of reselling the manufactured home to another customer.

"E. 'Credit' means the right granted by a creditor (as defined herein) to a customer (as defined herein) to purchase a manufactured home and defer payment therefor.

"F. 'Cash Price' means the price at which the creditor offers to sell for cash the manufactured home which is the subject of a credit sale. It may include the cash price of accessories and appliances and the cost of delivery and installation, and may include sales tax to the extent imposed on the cash sale.

"G. 'Downpayment' means the amount of any money and value of any property traded in which is applied by the customer to the payment of the cash price for the financing of the credit sale of the manufactured home.

"H. 'Other Charges' means any charge which is part of the credit extended to the customer and which is not included as part of the cash price or the finance charge, and includes, but is not limited to, such items as sales tax, which the creditor chooses to exclude from the cash price, and such other charges as license fee, certificate of title fee, transfer of title fee, insurance premium, and fees prescribed by the Texas Business and Commerce Code for the perfecting or releasing of a security interest.

"I. 'Amount Financed' means the amount of credit which the customer will have the actual use of as determined hereafter, and shall equal the sum of the cash price and the other charges as defined in Subparagraph H above minus the downpayment.

"J. 'Finance Charge' means the costs of credit determined in accordance with Section 3 and includes time price differential.

"K. 'Annual Percentage Rate' means the annual rate of finance charge as determined in accordance with Section 3.

"L. 'Total of Payments' means the sum of the amount financed and the finance charge and equals the total amount to be paid by the customer to the creditor after the signing of the credit sale contract.

"M. 'Time Price Differential' means the total amount to be added to the sum of the cash price plus all other charges less the customer's downpayment to determine the amount of the customer's indebtedness to be paid under a credit sale contract.

"N. Words of the masculine gender include the feminine and the neuter and when the sense so indicates, words of the neuter gender may refer to any gender. Words of the singular include the plural when the sense so indicates and words of the plural include the singular when the sense so indicates.

"O. 'Person' means an individual, partnership, corporation, joint venture, trust, association or any legal entity however organized. 'Natural Person' means a human being.

"Sec. 3. Finance Charge, Time Price Differential and Annual Percentage Rate.

"A. Rate. Notwithstanding the provisions of any other laws, the time price differential in a credit sale of a manufactured home pursuant to an installment contract payable in substantially equal successive monthly installments shall not exceed an amount determined under the following schedule:

"(1) Any manufactured home which is the subject of a retail sale for the first time may be sold at a rate not in excess of Seven Dollars and Fifty Cents per One Hundred Dollars per annum.

"(2) Any manufactured home which has been the subject of a prior retail sale may be sold at a rate not in excess of Ten Dollars per One Hundred Dollars per annum.

"(3) Any manufactured home which is the subject of a retail sale with the purchase of said manufactured home being financed for a time period in excess of 60 months from the date of the contract may be sold with either a rate charge calculated pursuant to the applicable Subparagraph above or a time price differential charge produced by but not in excess of the amount obtained by applying the true annual percentage rate produced by Subparagraph (1) above for a term of 60 months to the unpaid portion of the amount financed determined to be outstanding from time to time according to the terms and schedule of payments of said contract, so that all contracts in excess of 60 months may be financed at such annual percentage rate.

"B. Date of Computation of Finance Charge. The finance charge shall be computed on the amount financed from the date of the credit sale contract until the maturity of the final installment, notwithstanding that the total of payments is required to be paid in installments.

"C. Irregular Periods. For a period lesser or greater than twelve months or for amounts lesser or greater than One Hundred Dollars, the amount of the maximum charge set forth in the foregoing schedule shall be decreased or increased proportionately. A fractional monthly period of fifteen days or more may be considered a full month.

"D. Maximum Rate for Irregular Payments. If a credit sale contract is payable other than in substantially equal successive monthly installments, as where payable in irregular or unequal installments either in amount or periods thereof, or in equal successive monthly installments followed by or interspersed with an irregular, unequal or larger installment or installments, or in other than monthly installments or if the first installment is not payable one month from the date of the contract, the finance charge may not exceed an amount which, having due regard for the schedule of installment payments, will provide the same effective return as if the credit sale contract were payable in substantially equal successive monthly installments beginning one month from the date of the credit sale contract, as provided in Subchapter A above.

"E. Annual Percentage Rate. Except as otherwise provided in this section, the annual percentage rate shall be that nominal annual percentage rate determined as follows:

"(1) In accordance with the actuarial method of computation so that it may be disclosed with an accuracy at least to the nearest quarter of one percent. The mathematical equation and technical instructions for determining the annual percentage rate in accordance with the requirements of this paragraph are set forth in Supplement I to Regulation Z of the Federal Truth-in-Lending Act, said Supplement being incorporated in this Chapter by reference.

"(2) At the option of the creditor, by application of the United States Rule so that it may be disclosed with an accuracy at least to the nearest quarter of one percent. Under this rule, the finance charge is computed on the unpaid balance for the actual time the balance remains unpaid and if the amount of a payment is insufficient to pay the accumulated finance charge, the unpaid accumulated finance charge continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the amount financed.

"F. Rate Tables. The Regulation Z Annual Percentage Rate Tables produced by the Federal Reserve Board may be used to determine the annual percentage rate, and any such rate determined from these tables in accordance with instructions contained therein will comply with the requirements of this section.

"Sec. 4. Disclosure Requirements.

"A. Multiple Creditors. If there is more than one creditor in a transaction, each creditor whose identity is known at the time of the credit extension shall be clearly identified. The disclosure of any one item by any creditor shall satisfy the requirement to disclose such item regardless of which creditor makes the disclosure.

"B. Multiple Customers. If there is more than one customer in a credit sale, the creditor need furnish the disclosures required by this Chapter to only one of the customers.

"C. Leap Year. Any variance in the amount of any finance charge, payment, percentage rate, or other term required under this Chapter to be disclosed, or stated in any advertisement, which occurs by reason of the addition of February 29 in each leap year, may be disregarded, and such term may be disclosed or stated without regard to such variance.

"D. Place and Time of Disclosure. The creditor shall make the disclosures required by this Chapter before the customer signs the credit sale contract. At the time disclosures are made, the creditor shall furnish the

customer with a duplicate of the instrument or a statement by which the required disclosures are made and on which the creditor is identified. All of the disclosures shall be made together on the credit sale contract on the same side of the page and above or adjacent to the customer's signature.

"E. Signature. The credit sale contract shall be signed by both the customer and creditor and shall state the date of the credit sale contract, which shall be the date that the last signature is made.

"F. Required Notice. The printed portion of the credit sale contract, other than instructions for completion, shall be in a size equal to at least eight-point type. Such contract shall contain substantially the following notice:

'NOTICE TO THE CUSTOMER - DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN. UNDER THE LAW YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS MAY OBTAIN A PARTIAL REFUND OF THE FINANCE CHARGE. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS.'

"G. Identity of Parties. The credit sale contract shall contain the names of the creditor and the customer, the address of the place of business of the creditor, the residence or other address of the buyer as specified by the customer, and the name of the manufacturer and model of the manufactured home sold or to be sold.

"H. Delinquency Charge. The creditor may collect a delinquency charge on each installment in default for a period of more than ten days in an amount not to exceed five percent of each installment or not in excess of Ten Dollars, whichever is less. Only one such delinquency charge may be collected on any installment regardless of the period during which it remains in default. The creditor shall disclose on the credit sale contract the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments. The charge or collection of a delinquency charge shall not affect the right of a creditor to accelerate the contract pursuant to Section 9 of this Chapter.

"I. Security Interest. The creditor shall disclose in the credit sale contract whether a security interest is retained. If a security interest is retained, the creditor shall give a general description of the property which is subject to the security interest. For purposes of this Subsection, it shall be sufficient for the creditor to state that 'The creditor retains a purchase money security interest in the manufactured home and all items sold pursuant to this contract.'

"J. Acknowledged Delivery. The customer's acknowledgment of delivery of a copy of the credit sale contract shall be conclusive proof of such delivery, and that such contract when signed by the customer did not contain any blank spaces except as herein provided, and of compliance with this Section in any action or proceeding by or against a subsequent creditor without knowledge to the contrary when the creditor acquires the credit sale contract.

"K. Payment Statement. Upon written request of the customer, the creditor shall give or forward to the creditor a written statement of the dates and amounts of the received installment payments and the total amount unpaid under such contract. Such a statement shall be given the customer once every six months without charge. If any additional statement is requested by the customer, it shall be supplied by the creditor at a charge not in excess of One Dollar for each additional statement. A customer shall be given a written receipt for any payment when made in cash.

“L. Special Order. If a customer desires to order a manufactured home from a creditor and the home is modified from a standard floor plan to fit the customer’s specifications, and the customer desires to purchase said home by executing a credit sale contract pursuant to this Chapter, the creditor may require the customer to pay a deposit not in excess of three percent of the estimated cash price. Upon arrival of the special ordered home, but not sooner, the customer shall execute a credit sale contract pursuant to the terms of this Chapter and the deposit shall be applied toward the payment of the cash price. Prior to the execution of the credit sale contract, the customer may cancel said order. In such event, the creditor may retain all or any portion of the deposit and the customer will not be responsible for any costs or expenses other than the forfeited deposit.

“M. Price Block Disclosures. The following items, if applicable, shall be disclosed on the credit sale contract in the sequence stated below:

“(1) The cash price of the manufactured house using the term, ‘cash price.’

“(2) The amount of the downpayment itemized, as applicable, as downpayment in money, using the term ‘cash downpayment,’ downpayment in property, using the term ‘trade-in,’ and the sum, using the term ‘total downpayment.’

“(3) ‘Other Charges’, individually itemized, which are included in the amount financed but which are not part of the finance charge, including insurance, taxes.

“(4) The sum of subparagraph (1) and (3) of this paragraph less subparagraph (2) and (4) of this paragraph, using the term ‘amount financed.’

“(5) The total amount of the finance charge, using the term, ‘finance charge,’ and where the total charge consists of two or more types of charges, a description of the amount of each type.

“N. Annual Percentage Rate. The credit sale contract shall also disclose the finance charge expressed as an annual percentage rate, using the term ‘annual percentage rate.’

“O. Payment Schedule. The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and, the sum of such payments using the term ‘total of payments.’ If any payment is more than twice the amount of an otherwise regularly scheduled equal payment, the creditor shall identify the amount of such payment by the term ‘balloon payment’ and shall state the conditions, if any, under which that payment may be refinanced if not paid when due.

“Sec. 5. Prepayment. Notwithstanding the provisions of any credit sale contract to the contrary, any customer may prepay it in full at any time before maturity, and if he does so, shall receive a refund credit of the time price differential which shall not be less than the sum obtained by applying each payment first to the time price differential, which is treated as being earned at the time of said payment in the same manner as interest, with the balance of each payment being applied to the unpaid portion of the amount financed and subtracting the sum of the payments and the remaining balance of the amount financed from the total of payments, and deducting an acquisition charge of Fifty Dollars from the remaining ‘unaccrued’ time price differential.

“Sec. 6. Extension.

“A. The creditor of a credit sale contract, upon request by the customer, may agree to an amendment thereto to extend or defer the scheduled due date of all or any part of any installment or installments or to renew, restate or reschedule the unpaid balance of such contract, or to increase or reduce the number of installments, and may collect for same a charge which will not exceed the amount obtained by the application of the actual annual percentage rate to

the remaining balance of the amount financed of the credit sale contract calculated pursuant to Section 5 above, for the period that any sum is extended or deferred. The creditor and customer may agree to an unlimited number of different extensions, with each extension for as long a period of time as agreed to by both parties. If the creditor imposes a charge or fee for deferral or extension, the creditor shall disclose to the customer:

“(1) The amount deferred or extended;

“(2) The date to which, or the time period for which payment is deferred or extended; and

“(3) The amount of the charge or fee for the deferral or extension.

“B. Alternatively, the creditor of a credit sale contract, upon request by the customer, may agree to amend the credit sale contract by renewal, restatement or rescheduling of the unpaid portion of the total of payments in the following manner. In such event the charge for such extension may be computed as follows: The sum of the unpaid amount financed as of the date of amendment and the cost of any insurance incidental to the amendment, any additional necessary official fees, and any accrued delinquency and collection charges, after deducting the prepayment refund credit required by Section 5, shall constitute an amount financed on which the charge may be computed for the term of the amended contract at the applicable time price differential provided in Section 3(A)(2). The provisions of this Chapter relating to minimum charges and acquisition costs shall not apply in calculating the amount financed of the amended contract. The amendment to the contract must be confirmed in a writing signed by the buyer. The writing shall set forth the terms of the amendment and the new due dates and amounts of the installments. A copy thereof shall either be delivered to the buyer or mailed to him at his address as shown on the contract. Said writing together with the original contract and any previous amendments thereto shall constitute the credit sale contract.

“Sec. 7. Insurance.

“A. Credit Life and Credit Accident and Health Insurance. On any credit sale contract made under the authority of this Chapter, a creditor may request a customer to provide credit life insurance and/or credit health and accident insurance as additional protection for such contract, and include the cost of such insurance as a separate charge in such contract. Only one policy of life insurance and one policy of health and accident insurance on any one customer may be in force with respect to any one loan contract at any one time. If the term or the initial amount of insurance of the credit life insurance or the credit accident and health insurance is less than the total of payments or the term of the credit sale contract, then the creditor shall disclose to the customer clearly and conspicuously the initial amount of the insurance and the credit sale contract shall state as follows:

‘THE CREDIT LIFE INSURANCE OR CREDIT ACCIDENT AND HEALTH INSURANCE INCLUDED UNDER THIS CONTRACT MAY NOT SATISFY THE INDEBTEDNESS.’

“However, the creditor may not charge the customer a separate charge for credit life insurance or credit accident and health insurance when the customer is a group beneficiary and the credit insurance is a part of a group policy. In the event of group credit insurance, the creditor shall include the cost of such coverage in the finance charge.

“B. Property Insurance. A creditor may, in addition, require a customer to insure tangible personal property involved in a credit sale contract made under authority of this Chapter, and include the cost of such insurance as a separate charge in such contract.



"C. Purchase of Insurance. When insurance is required in connection with a credit sale made under this Chapter, the creditor shall furnish the customer a statement which shall clearly and conspicuously state that insurance is required in connection with the contract, and that the customer shall have the option of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. Such statement or statements may be made in conjunction with or as part of the credit sale contract.

"D. Forced Place Insurance. If the customer fails to obtain the required insurance at any time, then the creditor may purchase said insurance and add the premium of said insurance together with interest at the rate of ten percent (10%) per annum. At the creditor's option, such sum will be added either to the outstanding balance of the contract and will become due and payable on the date of the last installment, or to each unpaid installment in equal increments with the interest being precalculated for the remainder of the term of the contract.

"E. Optional Insurance. In addition to credit life insurance and credit accident and health insurance, a creditor may finance as part of the credit sale contract, as optional insurance, any insurance which might be required pursuant to Subchapter B as well as insurance providing coverage for household goods, personal effects, broad form theft and comprehensive personal liability insurance as these coverages relate to the ownership and use of the manufactured home financed under this Chapter. In the case of the voluntary election by the customer to purchase the optional insurance, the customer must sign a statement indicating the customer's desire to purchase the insurance and describing the term, premium and type of insurance purchased. This statement may be included as part of the credit sale contract or may be on a separate document.

"F. Insurance Disclosure. The credit sale contract shall disclose the term, premium and type of insurance which is included in the amount financed. If required insurance is not included in the amount financed, then the creditor must disclose only the term and type of insurance required.

"G. Insurance less than Contract Term. The premium of any insurance included in the credit sale contract may be included in the amount financed and paid as part of the total of payments even if the term of the insurance is less than the term of the credit sale contract.

"H. Insurance Escrow. If agreed to between the creditor and customer, customer may elect to purchase any insurance through the creditor and include the premiums of such insurance in the credit sale contract or pay to the creditor the first year's premium and on the date each installment is due, pay a sum (hereinafter 'funds') equal to one-twelfth of the yearly premium installment for such insurance as reasonably estimated.

"The funds shall be held in an institution, the deposits or accounts of which, are insured or guaranteed by a Federal or State agency. The creditor shall apply the funds to pay said insurance premiums. The creditor may not charge for so holding and applying the funds, analyzing said account or verifying and compiling said bills. The creditor shall not be required to pay customer any interest or earnings on the funds. The creditor shall give to the customer, without charge, an annual accounting of the funds showing credits and debits to the funds and the purpose for which each debit to the funds was made.

"If the amount of the funds held by the creditor, together with the future monthly installments of funds payable prior to the due dates of insurance premiums shall exceed the amount required to pay said insurance as they fall due, such excess shall be, at the customer's option, either repaid to the customer or credited to the customer on the future monthly installments of funds. If the amount of the funds held by the creditor shall not be sufficient to pay insurance

premiums as they fall due, the customer shall pay to the creditor any amount necessary to make up the deficiency within 30 days from the date notice is mailed by the creditor to the customer requesting payment thereof. If the customer fails to make such adjustment with regard to insurance required pursuant to Subchapter 7B above, the creditor may treat the deficiency in the same manner as forced placed insurance described in Section 7D of this Subchapter.

"I. Authorized Insurance Companies. All insurance required by this credit sale contract or included in the credit sale contract shall be written at lawful rates and in accordance with the provisions of the Texas Insurance Code by a company authorized to do business in Texas.

"J. Right of Refusal. If the customer procures required insurance from someone other than the creditor, the creditor shall have the right for good cause to refuse to accept certain insurance policies from insurance companies designated by the creditor.

"K. Unearned Premiums. If the insurance is cancelled, adjusted or terminated for any reason, the refund for unearned insurance premiums received by the creditor shall be credited to the final maturing installments of the credit sale contract, and the remaining balance of the unearned insurance premiums shall be refunded to the customer; provided, however, that no cash refund shall be required if the amount thereof is less than One Dollar.

"L. Creditor Benefits. Any gain or advantage to the creditor or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as an additional charge or further finance charge in connection with any credit sale contract made under this Chapter except as specifically provided herein.

"Sec. 8. Transfer. A creditor may agree to accept a subsequent customer as an obligor under an existing obligation. In such event, the creditor may charge and receive a transfer fee not in excess of Fifty Dollars. The creditor shall make the disclosures to the subsequent customer as if the subsequent customer was a customer on a purchase pursuant to a credit sale contract under this Subchapter. Said disclosures shall be made as of the date of the subsequent purchase.

"Sec. 9. Default. A creditor may accelerate the maturity of any part or all of the amount owing on a credit sale contract if and only if the customer is in default on the performance of any obligation under the credit sale contract.

"Not less than thirty (30) days prior to taking any action to accelerate the maturity of any installment sales contract, to commence any legal action to recover under such obligation, or to take possession of any security of the installment buyer, the holder shall mail a written notice of intention to take such action, by registered or certified mail, to the address where the mobile home is located. The notice shall contain the following disclosures, made in a clear and concise manner:

"(1) The particular obligation or security interest, including the date of installment sale contract according to the records of the holder as well as a brief description of the mobile home.

"(2) The nature of the default claimed, which may be stated in general terms - for example: 'failure to make the required installment payments when due' or 'failure to maintain property damage insurance.' take at the expiration of the thirty (30) day notice period.

"(4) The right of the installment buyer to cure the default and the exact manner in which he may do so, including the sum of money which must be tendered, if any, in order to cure; the individual or office address to whom it must be tendered; and the form of acceptable payment in accordance with the provisions of the act.

"The notice required above shall not be required when the installment buyer has abandoned or voluntarily surrendered the property which is the subject of the mobile home installment sale; provided that the holder retains evidence thereof satisfactory to the administrator.

"In calculating the amount owing, the creditor shall grant to the customer a refund of finance charge calculated pursuant to Section 5. In addition, the credit sale contract may provide for the payment of an attorney's reasonable fee and for court costs and disbursements, and in the event of repossession, sequestration, or other action necessary to secure possession of the manufactured home securing the payment of the credit sale contract, such contract may provide for the charge and collection of actual and reasonable out-of-pocket expenses incurred in connection with such repossession or foreclosure, including costs of storing, reconditioning and reselling such manufactured home, subject to the standards of good faith and commercial reasonableness set by the Texas Business and Commerce Code as adopted in Texas. In the event of default, any sum in an insurance escrow account, established pursuant to Section 7 of this Subchapter, shall be applied to the remaining balance of the contract.

"Sec. 10. Prohibited Provisions. No credit sales contract shall:

"(1) Contain a power of attorney to confess judgment in this State or an assignment of wages;

"(2) Provide that the customer agrees not to assert against a creditor or any assignee of the credit sale contract any claim or defense arising out of the sale.

"(3) Authorize the creditor or other person acting on his behalf to enter upon the customer's premises unlawfully or to commit any breach of the peace in the repossession of a manufactured home.

"(4) Provide for or grant a first lien upon real estate to secure such obligation, except (a) such lien as is created by law upon the recording of an abstract of judgment or (b) such lien as is provided for or granted by a contract or series of contracts for the sale or construction and sale of a structure so long as the time price differential does not exceed an annual percentage rate of ten (10%) percent.

"(5) Provide that a customer is required to enter into an insurance escrow agreement pursuant to Section 7 of this Chapter.

"Sec. 11. Transfer of Creditor's Rights in a Credit Sale Contract.

"A. Right of Transfer. Any person may purchase or acquire or agree to purchase or acquire any credit sale contract or any outstanding balance from any other person on such terms and conditions and for such price as may be mutually agreed upon;

"B. Transfer Notice. Notice to the customer of the transfer of rights and any requirement that the creditor be deprived of dominion over payments upon a credit sale contract, or over the manufactured home if returned to or repossessed by the creditor, is not necessary to the validity of a written transfer of the credit sale contract or any outstanding balance as against creditors, subsequent purchasers, pledgees, mortgages and lien claimants of the creditor.

"C. Payment after Transfer. Unless the customer has notice of the transfer of the credit sale contract, or any outstanding balance thereunder payment therefor made by the customer to the creditor last known to him shall be binding upon all subsequent creditors.

"Sec. 12. Application. None of the provisions of this Subchapter shall affect or apply to any loans or to the business of making loans under or in accordance with the laws of this State, nor shall any of the provisions of the loan or interest statutes of this State affect or apply to any credit sale contract, as defined in Section 2 of this Subchapter. Nothing in this Chapter shall be

construed to impair or in any way affect any rule of law applicable to, or governing retail installment sales not otherwise subject hereto. This Chapter shall apply exclusively to all credit sale contracts as defined in Section 2.

"Sec. 13. Waiver. No act or agreement of the customer before, or at the time of the making of a credit sale contract, or purchase thereunder, shall constitute a valid waiver of any of the provisions of this Chapter.

"Sec. 14. Consumer Credit Commissioner. The Consumer Credit Commissioner of Texas shall have the same powers and authority to enforce this Act as those provided in Chapter 2 of Title 79."

The amendment was read.

Senator Jones of Taylor moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Tracger, Truan, Vale, Williams.

Nays: Clower, Mauzy, Patman.

### SENATE RULE 103 SUSPENDED

On motion of Senator Snelson and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider **H.B. 1626** today.

### SENATE BILL 350 WITH HOUSE AMENDMENTS

Senator Mauzy called **S.B. 350** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Atkinson

Substitute the following for S.B. No. 350  
A BILL TO BE ENTITLED

### AN ACT

relating to public school finance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 16.001, Texas Education Code, as amended, is revised and amended to read as follows:

Sec. 16.001. STATE POLICY. It is the policy of the State of Texas that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to his or her educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors ~~child shall have the opportunity to develop to his/her full potential. It is further the policy of this state that the value assigned to each school district for the purpose of determining the district's~~

~~local share of its guaranteed entitlement under the Foundation School Program shall be equitably determined, notwithstanding the various types of wealth within each district, so that no class of property is unfairly treated].~~

SECTION 2. Sections 16.056(a) and (c), Texas Education Code, as amended, are amended to read as follows:

(a) School district personnel who are qualified for and employed in positions authorized in Subsection (d) of this section shall be paid not less than the monthly base salary, plus increments for teaching experience, for the applicable pay grade computed on the basis of the salary index set forth in Subsection (c) of this section. The value of each cell in the salary index shall be determined by multiplying the index factor for the cell by \$1,015 ~~[\$940]~~ for the 1979-1980 ~~[1977-1978]~~ school year and by \$1,087 ~~[\$949]~~ for each school year thereafter.

SECTION 3. Section 16.055(b), Texas Education Code, as amended, is amended to read as follows:

(b) Salaries shall be paid on the basis of a minimum of 10 months service, which must include the number of days of instruction for students and days of inservice training and preparation for personnel required by Section 16.052 of this code. The days of inservice training and preparation required herein shall be conducted by local boards of education under rules and regulations established by the State Board of Education that are consistent with the state accreditation standards for program planning, preparation, and improvement. Personnel employed for more than 10 months shall be paid not less than the minimum monthly base pay plus increments for experience for each month of actual employment. Personnel employed for 11 months at pay grades 1-11 must render 201 ~~[210]~~ days of service, and personnel employed for 12 months at pay grades 1-11 must render 219 ~~[230]~~ days of service. Personnel employed for 11 months at pay grades 12-18 must render 210 days of service, and personnel employed for 12 months at pay grades 12-18 must render 230 days of service. However, the number of days of service required by this subsection may be reduced by the commissioner under Section 16.052(b) of this code, and the reduction shall not reduce the total salaries of personnel.

SECTION 4. Section 16.102(b), Texas Education Code, as amended, is amended to read as follows:

(b) The attendance of kindergarten students may not be counted for personnel unit allotment purposes for more than one-half of a school day during the full school year or for the full school day for more than one-half of the school year unless the student is educationally handicapped. A district that admits nonhandicapped students to full day kindergarten for the full year and does not charge tuition for those students is entitled to an allocation of \$300 for each of those students. An educationally handicapped student is a student who cannot speak and comprehend the English language or who is from a family whose income, according to standards promulgated by the State Board of Education, is at or below a subsistence level.

SECTION 5. Subchapter C, Chapter 16, Texas Education Code, is amended by adding Section 16.105 to read as follows:

Sec. 16.105. COMPENSATORY EDUCATION PERSONNEL. (a) In this section, "educationally disadvantaged pupils" are pupils who are eligible for federal compensatory education services under the provisions of Title I of the Federal Elementary and Secondary Education Act, 20 U.S.C.A., Sec. 236 et seq., for purposes of the 1979-1980 and 1980-1981 school years. For purposes of each school year thereafter, "educationally disadvantaged pupils" are pupils who fail

to meet minimum competency requirements as measured by state minimum competency tests in reading, writing, and arithmetic, but are not counted for funding under Section 16.104 of this code. State minimum competency tests in reading, writing, and arithmetic shall be prepared by the Central Education Agency. The tests shall be administered beginning in the 1980-1981 school year in grades 5 and 9 and in the 1981-1982 school year in grades 3, 5, and 9. The percent of educationally disadvantaged pupils found to exist among all children tested in the district shall be multiplied times the number of pupils in the district to determine the total number of educationally disadvantaged pupils in the district for purposes of this section.

The district-wide results shall be reported to the Central Education Agency and made available to the public. The individual students' test results shall be communicated to the parents or guardians of the pupil but shall not be released to any other nondistrict personnel without the consent of the parents or guardians. This section, to the extent it applies, is an exception to the Texas Open Records Act.

(b) Each school district shall be allotted personnel units at the rate of one unit for each 100 educationally disadvantaged pupils enrolled in the district's schools during the school year. The units must be used for personnel who provide compensatory instructional services to students in the district's schools.

SECTION 6. Section 16.102(g), Texas Education Code, as amended, is amended to read as follows:

(g) A district's total personnel units, as adjusted, shall be reduced by an amount equal to one-half of the sum of the personnel unit values for vocational and compensatory personnel allocated to the district under the provisions of Sections ~~Section~~ 16.103 and 16.105 of this chapter, and by an amount equal to one-fourth of the sum of the personnel unit values for special education personnel allocated to the district under the provisions of Section 16.104 of this code.

SECTION 7. Section 16.102, Texas Education Code, as amended, is amended by adding Subsection (o) to read as follows:

(o) Notwithstanding Subsections (d) and (e) of this section, a school district that has 1,000 or fewer students in average daily attendance and an index value determined under Section 16.252 of this code of not more than \$200,000 for each student in average daily attendance shall be allotted not less than 12 personnel units if it offers a kindergarten through grade 12 program and has a prior year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district, not less than 7.2 personnel units if it offers a kindergarten through grade 8 program and has a prior year's average daily attendance of at least 50 students, and not less than 4.2 personnel units if it offers a kindergarten through grade 6 program and has a prior year's average daily attendance of at least 40 students. In addition, each school district that has 1,000 or fewer students in average daily attendance shall be allotted .6 personnel unit to be used cooperatively with other districts to provide support services necessary to meet accreditation standards. Determination of the index value for each student in average daily attendance shall include the number of eligible students who transfer to another school district in grades not taught by the resident district.

SECTION 8. Section 16.103(f), Texas Education Code, as amended, is amended to read as follows:

(f) Vocational professional unit allotments, except classroom teachers who also served as part-time vocational teachers, shall be made in addition to other professional unit allotments. Notwithstanding anything to the contrary, vocational administrative units shall be approved on a 12-month contract basis,

and vocational supervisor units shall be approved on up to a 12-month contract basis, based on program needs, and vocational counselor units shall be approved on up to an 11-month contract basis, based on program needs. In addition to the regular operating allowance, there shall be an additional allocation of \$400 for each vocational teacher unit which shall be used for instructional materials within the vocational program area for which allocated.

SECTION 9. Section 16.151, Texas Education Code, as amended, is amended to read as follows:

Sec. 16.151. OPERATING COST ALLOTMENT. (a) Each school district shall be allotted \$130 ~~[\$140]~~ for each student in average daily attendance during the 1979-1980 ~~[1977-1978]~~ school year and \$145 ~~[\$145]~~ for each student in average daily attendance each school year thereafter.

(b) In addition each school district shall be allotted \$20 for each educationally disadvantaged pupil enrolled in the district's schools during the school year. The term "educationally disadvantaged pupil" has the meaning assigned by Section 16.105 of this chapter.

SECTION 10. Sections 16.202, 16.203, 16.204, 16.206, 16.207, 16.210, and 16.211, Texas Education Code, as amended, are amended, and Section 16.212 is added to read as follows:

Sec. 16.202. PUBLIC SCHOOL TRANSPORTATION SYSTEM. (a) The county school boards, where funded under law, or local district school boards, subject to approval by the state commissioner of education, are authorized to establish and operate an economical public school transportation system within their respective counties or school districts.

(b) In establishing and operating such transportation systems, the county or local district school boards shall:

(1) requisition buses and supplies from the state board of control as provided for in this subchapter;

(2) prior to June 1 of each year, with the commissioner's approval, establish school bus routes in their respective counties or districts for the succeeding school year;

(3) employ school bus drivers certified in accordance with standards and qualifications promulgated jointly by the Central Education Agency and the Texas Department of Public Safety as required by law; and

(4) be responsible for the maintenance and operation of school buses.

Sec. 16.203. COUNTY AND DISTRICT TRANSPORTATION FUNDS. ~~[(a)]~~ State warrants for transportation, payable to the county or district school transportation fund ~~[in each county]~~, shall be for the total amount of transportation funds for which the county or district is eligible under the provisions of this subchapter.

~~[(b) When requested by the board of trustees of an independent school district, the county school board shall authorize an independent district to:~~

~~[(1) employ its school bus drivers;~~

~~[(2) be responsible for the maintenance and operation of its school buses; and~~

~~[(3) receive transportation payments directly from the state.~~

~~[(c) When the county superintendent reports the authorization to the state commissioner of education, state warrants for transportation funds for which the district is eligible shall be made payable to the district transportation fund, which is hereby created.]~~

Sec. 16.204. USE OF BUSES FOR EXTRACURRICULAR ACTIVITIES, ETC. (a) The county or district school boards and the state commissioner of education shall promulgate regulations in regard to the use of school buses, for

other than transporting eligible children to and from school. Under rules and regulations of the State Board of Education, the appropriate ~~[district]~~ allocation in the county transportation fund, when approved by the county school board, or the district transportation fund, when approved by the board of trustees of the independent school district operating its own transportation system, may be used for school bus transportation of its pupils and necessary personnel on extracurricular activities and field trips sponsored by the respective district.

(b) Subject to the rules of the commissioner of education, a school district or county school board governing a countywide transportation system may contract with governmental agencies or nonprofit organizations for the use of school buses for the transportation of senior citizens or handicapped persons.

Sec. 16.206. CALCULATION OF ALLOTMENT. (a) The total annual regular transportation cost allotment for each district or county shall be based on the rules and formulas of this section.

(b) A typical bus route is defined as being from 45 to 55 miles of daily travel ~~[and composed of 60 percent surfaced roads and 40 percent dirt roads]~~, over which ~~[15 or more]~~ pupils who live two or more miles from school are transported.

(c) For the 1979-1980 and 1980-1981 ~~[1977-1978]~~ school years ~~[year]~~, allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be:

<u>Linear</u>	<u>@ Allocation per mile</u>	<u>Density Grouping</u>	<u>@ of approved route</u>
2.40 and above @ \$ .90	1.65 to 2.40 @ .71	1.15 to 1.65 @ .64	.90 to 1.15 @ .55
.65 to .90 @ .48	.40 to .65 @ .44	up to .40 @ .40	
[72 capacity bus	\$5,701 per year		
60-71 capacity bus	5,492 per year		
49-59 capacity bus	5,283 per year		
42-48 capacity bus	5,074 per year		
30-41 capacity bus	4,866 per year		
20-29 capacity bus	4,657 per year		
15-19 capacity bus	3,821 per year		
1-14 capacity bus	161 per pupil per year]		

Density grouping shall be based on the 1977-78 data compiled by the commissioner of education pursuant to Section 10, Chapter 1, Acts of the 65th Legislature, 1st Called Session, 1977. ~~[For the 1978-79 school year and thereafter, the allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be 105.2 percent multiplied by the allowable total base cost for each bus during the 1977-1978 school year.]~~

(d) For the 1981-82 school year and thereafter, the districts will be regrouped based on data from the first year of the preceding biennium. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act.

(c)[(d)] The capacity of a bus means the number of eligible children being transported who live two or more miles from school or reside in an area that has been determined hazardous ~~[along the approved route served by the bus. A bus that makes two or more routes or serves two or more schools shall be considered as having a capacity equal to the largest number of eligible children on the bus at any one time].~~ Bus routes designed to serve pupils who live two or more miles from school may be extended or trips added up to one-tenth of the district's total daily mileage to serve children made eligible because of hazardous conditions. A hazardous condition exists where it is obviously dangerous for children to walk



through or cross a freeway or expressway, uncontrolled major arteries of traffic, industrial or commercial areas as well as underpasses or overpasses, and bridges where a walkway is not provided. It shall be the responsibility for the school district to identify the specific hazardous areas for which a transportation allocation is requested. It is the intent of the State of Texas to limit children standing on school buses while said buses are in motion unless an emergency exists. When an emergency exists a driver may permit standees on a school bus for a period not to exceed 10 days per year. During the emergency period the driver may not permit more than one child per seat to stand while the bus is in motion. The emergency situation must be reported to the commissioner of education. Notwithstanding any other adjustments authorized, districts complying with the provisions of this section will be entitled to a five percent increase in the district's transportation allocation. The total allocation for a district or county transportation unit for the 1979-80 or 1980-81 school year shall not be less than the total allocation received for the 1978-79 school year based on an equal number of state approved bus routes.

~~[(e) For each one percent increase of dirt road above 40 percent, one half of one percent shall be added to the allowable total cost.~~

~~[(f) For each five mile (or major fraction thereof) increase in daily bus travel above 55 miles, one percent shall be added to the total cost of operation. For each five miles (or major fraction thereof) less than 45 miles daily travel, one percent shall be deducted from the total cost of operation.]~~

~~[(f)](g) The state commissioner of education may grant an amount not exceeding \$600 per pupil per year [not to exceed \$80 per pupil per year in 1977-1978, or \$84 per pupil per year in 1978-1979 and thereafter] for private or commercial transportation for eligible pupils from isolated areas. The per pupil per year allowable for the 1981-1982 school year and thereafter shall be determined by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. The grants shall be made only in extreme hardship cases, and no grants shall be made if the pupils live within two miles of an approved school bus route or city public transportation service.~~

~~[(g)](h) The cost of transporting vocational education students from one campus to another inside a district or from a sending district to another secondary public school for a vocational program or an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.~~

~~[(h)](i) A school district that provides special transportation services for eligible handicapped pupils is entitled to a state allocation. Allocations for handicapped transportation in district-owned school buses shall be paid on previous year's cost-per-mile basis. For the 1979-80 and 1980-81 school years, the maximum allowable per mile cost will be 80 cents. For the 1981 and 1982 years and thereafter, the maximum rate per mile allowable will be recalculated based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation cost, if necessary. The state commissioner of education may grant an amount not to exceed 18 cents per mile or a maximum of \$600 per pupil per year for private transportation to reimburse parents or their agents for transporting eligible handicapped pupils. For the 1981-82 and 1982-83 school years and thereafter,~~

the rate per mile and the maximum allowable per pupil will be determined by the commissioner of education for consideration by the Foundation School Program Committee and the legislature in the appropriations bill. The mileage allowed will be computed along the shortest public road from the pupil's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases. ~~[A school district that provides special transportation services for exceptional students who would be unable to attend classes without the service is entitled to funds equal to the actual cost of the transportation not exceeding \$278 in 1977-1978 or \$292 in 1978-1979 and thereafter for each exceptional student transported.]~~

Sec. 16.207. ROUTES AND SYSTEMS: EVALUATION AND APPROVAL. (a) All bus routes and transportation systems shall be reviewed by the state commissioner of education and he shall be responsible for establishing criteria for evaluating the several transportation systems of this state, but all the criteria shall be subject to approval by the State Board of Education.

(b) The commissioner shall evaluate all transportation systems as rapidly as possible.

(c) No new bus routes or extensions shall be approved prior to the survey of the transportation system of the district or county requesting them.

(d) ~~[(e)]~~ In approving a transportation system for a district or county, consideration shall be given to providing transportation for only those pupils who reside in hazardous areas or live two or more miles from the school they attend except handicapped pupils. ~~No[, but no]~~ consideration shall be given to providing transportation for pupils transferred from one district to another when their grades are taught in their home district unless transferred as provided by law and transportation has been approved ~~[by the county school board]~~ as provided by law.

(e) ~~[(f)]~~ There shall be no duplication of bus routes and services within sending districts by buses operated by two school districts and/or counties except on approval by the state commissioner of education.

Sec. 16.210. APPEALS. Appeals to the commissioner of education and to the State Board of Education may be had from policy decisions of the ~~county~~ school boards affecting transportation.

Sec. 16.211. PURCHASE OF VEHICLES. (a) Motor vehicles used for the purpose of transporting school children, including school buses and ~~and~~ their chassis and/or bodies, may be purchased through the state board of control and, if so purchased, shall be paid for by the state board of control as set out in applicable laws. The legislature may appropriate out of any money in the state treasury not otherwise appropriated a sum not exceeding \$250,000, ~~[or as much thereof]~~ as necessary, for the state board of control to be used for such purposes. ~~[(b)]~~ Any sum appropriated shall be known as the school bus revolving fund. When motor vehicles and school buses are delivered to the various schools coming within the provisions of this chapter, the governing bodies of those schools shall reimburse the state board of control for the money expended for such school buses including their chassis and/or bodies and the money shall be deposited by the state board of control in the school bus revolving fund.

(b) Motor vehicles used for the purpose of transporting school children, including school buses and their chassis or bodies, may be purchased by a school district directly from any manufacturer or from any authorized agent thereof if the school district can demonstrate, to the satisfaction of the state board of control, that the purchase would be more economically advantageous than if the district were to make the purchase under Subsection (a) of this section. Any vehicle purchased under this subsection shall be in compliance with all applicable

safety standards for the vehicle and the procedures for the purchase must be in compliance with all applicable laws governing other school district purchases.

Sec. 16.212. CONTRACT WITH PUBLIC TRANSPORTATION COMPANY. (a) As an alternative to maintaining and operating a complete public school transportation system under this subchapter, a county or district school board may contract with public transportation companies for all or any part of its public school transportation if the board is able to obtain an economically advantageous contract.

(b) A contract is economically advantageous if the cost of the service contracted for is equal to or less than the total cost to the school district for providing its own complete bus service. The total cost to the school district is the state transportation cost allotment plus the supplementary funds necessarily provided by the local school district to provide complete transportation services.

(c) This section in no way prohibits the local school board from supplementing the state transportation cost allotment with local funds necessary to provide complete transportation services.

(d) The state commissioner of education, subject to the approval of the State Board of Education, shall make rules for the administration of this section.

(e) Contracts for alternative public school transportation may include provisions for transporting students to and from approved school activities.

(f) Upon approval of the contract by the State Board of Education, the portion of the annual transportation allotment which is to be used to finance the contract for alternative transportation services shall be included in the annual transportation cost allotment for the respective county or district.

SECTION 11. Section 16.252, Texas Education Code, as amended, is amended to read as follows:

Sec. 16.252. LOCAL SHARE OF PROGRAM COST. (a) For the 1979-1980 ~~[1977-1978]~~ school year ~~[and each year thereafter]~~, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of an index rate of .0015 ~~[-.0018]~~ multiplied by the full market value of property in the district or the product of an index rate of .00175 ~~[-.00205]~~ multiplied by the index value of property in the district ~~[determined pursuant to Section 11.86 of this code]~~, whichever amount is smaller.

(b) For the 1979-1980 school year, the commissioner of education shall determine the full market values by using the official 1979 School Tax Assessment Practices Board report of market values minus:

(1) the value of property reported in category N (intangible personal property);

(2) the value of property reported in category M (personal property) that represents the estimated value of household goods and other personal property exempt from taxation under Article VIII, Section 1, of the constitution;

(3) the value of property reported in category H (motor vehicles) that represents the estimated value of motor vehicles exempt from taxation under the law; and

(4) the estimates of value of homestead exemptions granted under a statute enacted under Article VIII, Section 1-b(c), of the constitution. ~~[For the 1977-1978 and 1978-1979 school years, the estimates of market values and agricultural use values of open space land reported in the official compilation of school district property values prepared by the Governor's Office, Education Resources shall be used as the market values and index values for the determination of the local fund assignment. For the 1979-1980 school year and thereafter, the commissioner of education shall utilize the official biennial report of the School Tax Assessment Practices Board estimates of the market value and index value in each school district for determining the local fund assignment.]~~

~~Such estimates of value shall be determined in accordance with Subchapter F, Chapter 11 of this code.]~~

(c) For the 1979-1980 school year, the commissioner of education shall determine index value by subtracting from the full market value of the district the difference between the market value of land and the productivity value of that land.

(d) For the 1980-1981 school year and each year thereafter, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of an index rate of .0016 multiplied by the index value of property determined pursuant to Section 11.86 of this code.

(e) Notwithstanding the provisions of Subsection (a) of this section, for the 1980-1981 school year the commissioner of education shall determine the index values by using the official 1979 School Tax Assessment Practices Board report of market values minus:

(1) the value of property reported in category N (intangible personal property);

(2) the value of property reported in category M (personal property) that represents the estimated value of household goods and other personal property exempt from taxation under Article VIII, Section 1, of the constitution;

(3) the value of property reported in category H (motor vehicles) that represents the estimated value of motor vehicles exempt from taxation under the law;

(4) the estimates of value of homestead exemptions granted under a statute enacted under Article VIII, Section 1-b(c), of the constitution; and

(5) the difference between the market value of land and the productivity value of that land.

(f) In making the calculations required by this subsection, the commissioner shall use, to the extent possible, data provided by the School Tax Assessment Practices Board.

(g) ~~(e)]~~ No ~~[For the 1977-1978 school year and each school year thereafter,~~ ~~no]~~ district's local fund assignment as determined pursuant to this section shall exceed 120 ~~[+25]~~ percent of its prior year's local fund assignment.

(h) ~~(d)]~~ The commissioner of education shall adjust the values reported by the School Tax Assessment Practices Board pursuant to Section 11.86 of this code ~~[in the official compilation]~~ to reflect reductions in taxable value of property resulting from natural or economic disaster that occurred after January 1 of the tax year used in calculating the local fund assignment ~~[since January 1, 1975]. [The commissioner shall make a preliminary determination of each district's share of its guaranteed entitlement under the Foundation School Program for the 1977-1978 and 1978-1979 school years no later than August 15, 1977 and 1978 respectively. Each district shall have the right to appeal its value based on the 1976 official compilation of school district property values prepared by the Governor's Office, Education Resources. Prior to October 1, 1977, appeals shall be reviewed by the commissioner of education and these appeals to the commissioner shall not be subject to the provisions of the Administrative Procedure and Texas Register Act. Appeals thereafter shall be held pursuant to Section 11.86(d) of this code. The decision of the commissioner of education shall be final and shall be completed no later than October 1, 1977. Thereafter, the decision of the School Tax Assessment Practices Board may be appealed pursuant to Section 11.86(e) of this code.]~~

(i) ~~(e)]~~ A school district need not raise its total local share of its program cost.

SECTION 12. Sections 16.301 and 16.302, Texas Education Code, as amended, are amended to read as follows:

Sec. 16.301. DISTRICT ELIGIBILITY. ~~[(a)]~~ A school district with an average property value per student in average daily attendance which is less than 110 percent of the total statewide average property value per student in average daily attendance in the state is eligible for state equalization aid for the enrichment of its educational program beyond the level guaranteed under the Foundation School Program. The amount of state equalization aid shall not exceed \$275 ~~[\$185]~~ per student in average daily attendance for the 1979-1980 school year and \$290 per student in average daily attendance for the 1980-1981 school year and thereafter. Money received by local districts under provisions of this subchapter may be expended for any lawful school purpose.

~~[(b) Each school district whose average property value per student in average daily attendance is less than 50 percent of the total statewide average property value per student in average daily attendance in the state shall be eligible to receive an allotment of \$210 per student in average daily attendance in the district, to be distributed on the same basis as equalization aid under Subsection (a) of this section.]~~

Sec. 16.302. DETERMINATION OF EQUALIZATION AID ENTITLEMENT. (a) For the 1979-1980 school year, the ~~[The]~~ amount of state equalization aid to which a district is entitled is determined by the formula:

$$SEA = 1 - \frac{DAPV/ADA}{(SAPV/ADA \times 1.10)} \times ADA \times \underline{\$275} \text{ } \del{[\$185]}$$

where

"SEA" is the state equalization aid guaranteed to the district;

"DAPV/ADA" for districts offering a full K-12 grade instructional program is the average of the district's full market value of property and productivity ~~[agricultural use]~~ value of property ~~[as determined by the Governor's Office, Education Resources for the 1977-1978 and 1978-1979 school years and thereafter]~~ as determined pursuant to Section 16.252 ~~[(11.86)]~~ of this code divided by the number of students in average daily attendance in the district. "DAPV/ADA" for districts where the full K-12 grade instructional program is not offered shall include the average daily attendance of eligible students transferred to other school districts in grades not taught by the resident district;

"SAPV/ADA" is the average of the total statewide full market value of property and the total statewide productivity ~~[agricultural use]~~ value of property as determined ~~[by the Governor's Office, Education Resources for the 1977-1978 and 1978-1979 school years and thereafter as determined]~~ pursuant to Section 16.252 ~~[(11.86)]~~ of this code divided by the number of students in average daily attendance in the state; and

"ADA" is the number of students in average daily attendance in the district.

(b) For the 1980-1981 school year and each year thereafter, the amount of state equalization aid to which a district is entitled is determined by the formula:

$$SEA = 1 - \frac{DPV/ADA}{(SPV/ADA \times 1.10)} \times ADA \times \$290$$

where:

"DPV/ADA" for districts offering a full K-12 grade instructional program is the district's index value as determined under Section 16.252 of this code divided by the number of students in average daily attendance in the district. "DPV/ADA" for districts where the full K-12 grade instructional program is not offered shall include the average daily attendance of eligible students transferred to other school districts in grades not taught by the resident district;

"SPV/ADA" is the total statewide index value as determined under Section 16.252 of this code divided by the number of students in average daily attendance in the state; and

"ADA" is the number of students in average daily attendance in the district.

SECTION 13. Section 16.304(b), Texas Education Code, as amended, is amended to read as follows:

(b) If the amount of state aid required by this subchapter exceeds \$202 [~~\$135~~] million [~~per year~~] for the 1979-1980 school year [~~1977-1978~~] or \$215 million for the 1980-1981 [~~1978-1979~~] school year, the amount of state equalization aid guaranteed to each district shall be reduced proportionately until the total amount of funds required equals \$202 or \$215 [~~\$135~~] million, as applicable.

SECTION 14. Section 11.86(a), Texas Education Code, as added, is amended to read as follows:

(a) The board shall conduct a biennial study using comparable sales and other generally accepted techniques to determine the total market value and index value of all property [~~both real and personal, and both tangible and intangible,~~] in each school district subject to taxation under the law. The study shall determine the market value of all property and of each class of property within the district and the productivity value of all open-space, agricultural, or timber land that qualifies for appraisal pursuant to Article VIII, Section 1-d, of the constitution or any statute enacted pursuant to Article VIII, Section 1-d-1, of the constitution [~~generally available for the production of farm crops or forest products and for the raising of livestock within each district. In addition, the board shall estimate the productivity value of open space land exclusively devoted to or developed for agricultural purposes, as defined by the board.~~]. In conducting the studies, the board shall use appropriate standard valuation, statistical compilation, and analysis techniques to compute the total market value and productivity value. For the purposes of this section, "index value" means total market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study; and

(2) the difference between the market value and the productivity value of open-space land that qualifies for appraisal on the basis of its productivity as determined by the board. In no event shall the productivity value exceed the fair market value of the land.

SECTION 15. Subchapter E, Chapter 16, Texas Education Code, as amended, is amended by adding Section 16.106 to read as follows:

Sec. 16.106. SUPPORT FOR FAST-GROWING SCHOOL DISTRICTS.

(a) It is the purpose of this section to provide state aid to local school districts which experience unusually rapid growth in student enrollment from one year to the next so as to assist those districts in sustaining an adequate educational program for all students.

(b) A district is eligible to receive aid under this section if:

(1) the district's effective tax rate as determined under Subsection (c) of this section is greater than the statewide average effective tax rate as determined under that subsection;

(2) the district's current year's total number of students in average daily attendance as determined under Section 16.102 of this code is equal to or greater than 106 percent of its prior year's total number of students in average daily attendance; and

(3) the district raises its local fund assignment.

(c) For purposes of this section, a district's effective tax rate shall be determined by dividing the total amount of ad valorem tax revenue collected in the immediately preceding school year in the district by the total value of property which is used to calculate the district's local fund assignment. The statewide average effective tax rate shall be determined by dividing the total amount of ad valorem tax revenue collected by all the school districts in the state in the immediately preceding school year by the total index value of property in the state as determined pursuant to Section 11.86 of this code. For the 1979-1980 and 1980-1981 school years, the index values used herein shall be determined in accordance with Section 16.252(b) of this chapter.

(d) For the 1979-1980 school year and for each school year thereafter, the amount of state aid for each eligible school district under this section shall be determined by the formula:

$$FGA = \frac{PDG}{.06 - 1} \times CADA \times \$30$$

where

"FGA" is the district's fast growth allotment;

"PDG" is the percentage of the district's student growth, as determined by dividing the difference between the district's current and previous year's number of students in average daily attendance by the district's previous year's number of students in average daily attendance; and

"CADA" is the district's current year's number of students in average daily attendance as determined under Section 16.102 of this code.

(e) If the district's index value per student in average daily attendance as determined under Section 16.252(b) of this code is more than \$150,000 for each student in average daily attendance, the state aid provided in this section shall be determined by multiplying the following fraction to the otherwise computed amount:

$$1 - \frac{(\text{District's index value} - \$150,000)}{\$100,000}$$

(f) If the total amount of state aid under Subsections (d) and (e) of this section exceeds \$5 million per year, each district's allotment shall be ratably reduced until the amount of state aid allocated equals \$5 million per year.

SECTION 16. Subchapter B, Chapter 12, Texas Education Code, as amended, is amended by adding Section 12.131 to read as follows:

Sec. 12.131. **BALANCED ADOPTION CYCLE.** (a) To insure that current material is always available to the school children of Texas and to enable the development of material in an orderly and efficient manner, the State Board of Education shall develop and implement a balanced adoption cycle for proclamation of needs for textbooks and other instructional materials. At a minimum, the adoption cycle shall:

(1) not extend over a period of time in excess of six years;

(2) be planned on the basis of a cost to the state of not less than \$15 per student for the first year of the cycle and adjusted thereafter to account for increasing costs due to inflation of the economy;

(3) be so arranged that the total cost of new adoptions shall be approximately equal for each year of the proposed cycle, except as adjusted for increasing costs and a growing scholastic population;

(4) be all inclusive of the basal subjects to be used in the public school system of Texas during the period of time encompassed by the cycle; and

(5) be promulgated on a continuing basis so that providers of textbooks and other instructional materials shall be kept advised in advance for a period of time equal to the life of the cycle of the basal subjects to be called for adoption each year, to enable those providers to prepare the textbooks and instructional materials as will comply with the call for each year of the cycle.

(b) Except under emergency conditions deemed necessary by the State Board of Education, all changes or amendments in the cycle shall be made in a manner and at a time that a minimum of two years notice of the change will be available to the providers of textbooks and other instructional materials.

SECTION 17. Sections 21.165(d) and (e), Texas Education Code, are amended to read as follows:

(d) If the requisition is for the purchase of a motor vehicle, bus, bus body, or bus chassis, it must be approved by either the county school board when funded under law or the board of trustees of a school district ~~(trustees)~~ and by the commissioner of education.

(e) If the requisition is for the purchase of tires and tubes, it must be approved by ~~either~~ the county superintendent or the chief administrative officer of a school district ~~(the county school trustees)~~.

SECTION 18. Section 21.167, Texas Education Code, is amended to read as follows:

Sec. 21.167. SALE OF BUSES. When any school buses owned by any county or school district ~~[The sale price or trade-in value of any buses owned by any county or school district shall be considered in determining eligibility for transportation grants; and whenever any such buses]~~ are to be sold, traded in, or otherwise disposed of, they must be disposed of by the Board of Control or by the county school trustees or the trustees of the school district under such rules and regulations as the Board of Control may provide.

SECTION 19. Subchapter G, Chapter 16, Texas Education Code, as amended, is amended by adding Section 16.257 to read as follows:

Sec. 16.257. EQUITY IN REIMBURSEMENT. Notwithstanding any other provision of law, if a school district is directly reimbursed for tax revenue lost as a result of changes in tax base required by law, the amount of reimbursement shall be reduced by an amount equal to the result obtained by subtracting the district's local fund assignment as calculated under Section 16.252 of this code from the district's local fund assignment calculated on the basis of the market value of property in the district as determined pursuant to Section 11.86 of this code.

SECTION 20. Subchapter E, Chapter 16, Texas Education Code, as amended, is amended by adding Section 16.178 to read as follows:

Sec. 16.178. SUPPORT FOR DEMONSTRATION PROGRAMS FOR THE GIFTED AND TALENTED. (a) The purpose of this section is to provide state assistance to local school districts or combinations of school districts, pursuant to Section 11.19 of this code, for the establishment of demonstration programs for gifted and talented students in various regions of the state.

(b) Any school district or combination of school districts may make application to the state director of programs for the gifted and talented pursuant to Subsection (f) of Section 11.19 of this code.

(c) If the total cost of all approved demonstration programs for the gifted and talented exceeds \$5,000,000 per year, the allotment for each approved



demonstration program shall be ratably reduced until the total amount of state aid allocated equals \$5,000,000 per year.

SECTION 21. Section 16.104, Texas Education Code, as amended, is amended to read as follows:

Sec. 16.104. COMPREHENSIVE SPECIAL EDUCATION PROGRAM FOR HANDICAPPED CHILDREN. (a) The commissioner of education, with the approval of the State Board of Education, shall develop, and modify as necessary, a statewide design for the delivery of services to handicapped children in Texas which includes rules for the administration and funding of the special education program so that a free ~~an~~ appropriate public education is available to all handicapped children between the ages of three and 21 by no later than September 1, 1980. The statewide design shall include, but may not be limited to, the provision of services primarily through local school districts and special education cooperatives, supplemented by a regional delivery structure ~~and special allotments for districts impacted by residential or hospital placements~~. The commissioner shall further develop and implement a statewide plan with programmatic content which includes procedures designed to:

(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to handicapped students as defined in this section;

(2) facilitate interagency coordination when state agencies other than the Central Education Agency are involved in the delivery of special services to handicapped students;

(3) assess statewide personnel needs in all areas of specialization related to special education on a periodic basis and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education, and through other available alternatives;

(4) ensure that regional education service centers throughout the state maintain a regional support function, which shall include direct service delivery and a component designed to facilitate the placement of handicapped students who cannot be appropriately served within their resident districts;

(5) allow the Central Education Agency to effectively monitor and periodically conduct site visits of all local districts to ensure that agency rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts are accurate and complete;

(6) ensure the availability of sequentially related, field-based, in-service special education training programs for regular and special educators serving handicapped students and further ensure that all local districts dedicate at least the equivalent of one full day of their required in-service program per school year to that special education in-service training for those personnel;

(7) ensure that appropriately trained personnel are involved in the diagnostic and evaluation procedures operating in all local districts, and that the personnel routinely serve on local district admissions, review, and dismissal teams;

(8) ensure that an individualized education plan for each handicapped student is properly developed, implemented, and maintained in the least restrictive environment which is appropriate to meet the student's educational needs;

(9) ensure that, when appropriate, each handicapped student is provided an opportunity to participate in vocational and physical education classes, in addition to participation in regular or special classes; and

(10) ensure that each handicapped student is provided necessary related services.

(b) As used in this section:

(1) "Special services" means:

(A) "Special teaching," which may be provided by professional and paraprofessional personnel in the following instructional settings:

- (i) resource room;
- (ii) self-contained classroom, regular or special campus;
- (iii) hospital or community class;
- (iv) homebound or bedside;
- (v) speech or hearing therapy class; or

(B) "Related services," which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the proper development and implementation of a handicapped student's individualized educational plan, including but not limited to special transportation, school health services, counseling with students or families, psychological services, audiological services, visual training, medical or psychiatric diagnostic services, occupational therapy, physical therapy, recreational therapy, social work services, parent counseling and training, adaptive equipment, special seating, orientation and mobility training, speech therapy, music therapy, and corrective therapy.

(2) "Resident district" means the local school district in which the parent or other person who has the primary legal obligation for care, control, and custody of a handicapped student resides, except that if the state is managing conservator of the student, the resident district is the district within which the student is placed by the state.

(c) The commissioner, with the approval of the State Board of Education, shall develop specific eligibility criteria based on the general classifications established by this section with reference to contemporary diagnostic or evaluative terminologies and techniques. Eligible handicapped students shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this section. Instruction shall be supplemented by the provision of related services, when appropriate. The following classifications of handicapped students shall serve as the general eligibility criteria for participation in a district's special education program:

(1) "Handicapped students ~~[children]~~" means students ~~[children]~~ between the ages of 3 and 21, inclusive;~~[-]~~

(A) with educational handicaps (physically handicapped, auditorially handicapped, visually handicapped ~~[physical]~~, mentally retarded, emotionally disturbed, ~~[and/or children with language and/or]~~ learning disabled, speech handicapped, autistic, or multiply handicapped) ~~[disabilities] as hereinafter more specifically defined~~; and ~~[autistic children; and]~~ children leaving and not attending public school for a time because of pregnancy; and

(B) whose disabilities are so limiting as to require the provision of special services in place of or in addition to instruction in the regular classroom ~~[which render regular services and classes of the public schools inconsistent with their educational needs]~~.

(2) "Physically handicapped students ~~[children]~~" means students ~~[children of educable mind]~~ whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

(3) "Auditorially handicapped students" means students whose hearing is so impaired that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(4) "Visually handicapped students" means students whose sight is so impaired that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services. [~~"Mentally retarded children" means children whose mental capacity is such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.~~]

(5) "Mentally retarded students" means students with significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior and manifested during the developmental period such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(6) [(4)] "Emotionally disturbed students [~~children~~]" means students [~~children~~] whose emotional condition is [~~medically and/or~~] psychologically or psychiatrically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

(7) "Learning [(5) ~~"Language and/or learning~~] disabled students [~~children~~]" means students [~~children~~]:

(A) who demonstrate a significant discrepancy between academic achievement and intellectual abilities in one or more of the areas of oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, mathematics reasoning, or spelling;

(B) for whom it is determined that the discrepancy is not primarily the result of visual handicap, hearing impairment, mental retardation, emotional disturbance, or environmental, cultural, or economic disadvantage; and

(C) for whom the inherent disability exists to a degree such that they cannot be adequately served in the regular classes of the public schools without the provision of special services [~~who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or to make mathematical calculations, as identified by educational and/or psychological and/or medical diagnosis that they must be provided special services for educational progress. The term "language and/or learning disabled children" shall also apply to children diagnosed as having specific development dyslexia.~~]

(8) "Speech handicapped students" means students whose speech is so impaired that they cannot be adequately educated in regular classes of the public schools without the provision of special services.

(9) "Autistic students" means students whose disturbances of speech and language, relatedness, perception, developmental rate, and motility are such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(10) "Multiply handicapped students" means students handicapped by any two or more of the handicapping conditions described in Subdivisions (2) through (9) of this subsection that may result in multisensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

[(6) "Special services" required for the instruction of or program for handicapped children means special teaching in the public school curriculum]

~~inside and/or outside the regular classroom; corrective teaching, such as lipreading, speech correction, sight conservation, corrective health habits; transportation, special seats, books, instructional media, and supplies; professional counseling with students and parents; supervision of professional services and pupil evaluation services; established teaching techniques for children with language and/or learning disabilities.]~~

(d) ~~[(e)]~~ (1) Except as provided in Subdivision (2) ~~[(3)]~~ of this subsection a school district is allocated 30 special education personnel units for the first 3,000 students in refined average daily attendance, 1 special education personnel unit for each additional 100 students in refined average daily attendance up to a total of 6,000 students in refined average daily attendance, and .85 ~~[4.25]~~ special education personnel unit ~~[units]~~ for each additional 100 ~~[500]~~ students in refined average daily attendance thereafter. The units may be used only for personnel listed in Subsections (e) ~~[(d)]~~ and (f) ~~[(e)]~~ of this section.

~~[(2) Activation of personnel units shall be based on the following schedule:~~

<del>Personnel</del>	<del>Personnel Units</del>
<del>Special Education Teachers</del>	<del>4</del>
<del>Teacher Aides</del>	
<del>Level I</del>	<del>.55</del>
<del>Level II</del>	<del>.6</del>
<del>Level III</del>	<del>.75</del>
<del>Support Personnel</del>	<del>4.2</del>

(2) ~~[(3)]~~ If less than 12 percent of the district's students are identified as eligible handicapped students ~~[children]~~ and provided with special services by the district's special education personnel, the number of special education personnel units to which the district is entitled under Subdivision (1) of this subsection shall be reduced to a percent of full allocation based on the percent of students served according to the following schedule:

<del>Percent served</del>	<del>Percent of full allocation</del>
12%	100%
11%	94%
10%	88%
9%	82%
8%	76%
7%	70%
6%	63%
0-5% set by commissioner, not to exceed	56%

(3) ~~[(4)]~~ The percent of students served is determined by dividing the number of identified and eligible handicapped students ~~[children]~~ served by the district's special education personnel ~~[district]~~ by the district's refined average daily attendance and rounding the dividend to the nearest 10th. A district that serves less than 12 percent of the students in refined average daily attendance is entitled to an increase in the percent of allocation for a percent of students served specified in the schedule above equal to one percent of full allocation for each additional one-tenth of one percent of the students served but not exceeding the allocation specified on the schedule for the next highest percent of students served.

(4) Local districts may receive an additional allocation of \$100 per personnel unit as a start-up allocation during the first year of a new unit's activation.

(5) In addition to all other allocations authorized in this section, any local district may receive supplemental special education personnel unit allocations through application by the district to the commissioner of education. The application shall include a thorough demonstration of the particular needs which justify the requested supplemental allocation. Under rules adopted by the State Board of Education, the commissioner may approve the allocations on a discretionary basis, having primary regard for those requests which demonstrate such circumstances as:

(A) an unusually high concentration of handicapped students, or an unusually high concentration of severely handicapped students, eligible to receive services required by law to be provided by the applicant district's personnel and to whom the actual demonstrated cost of providing an appropriate education to those students, either individually or collectively, overcomes the district's ability to meet those needs after a proper utilization of that district's allocations under this section;

(B) an unusual cost burden imposed on a rural school district due to the difficulty involved in serving handicapped students in sparsely populated areas; or

(C) an unusual logistical difficulty involved in the administration of a special education cooperative which indicates a need for additional support personnel. [Any funds which may become available in excess of those required to fully fund the provisions of this section may be used to provide additional special education units which shall be allocated based on an application for the funds by the local district. The application shall include a thorough assessment of the local district's particular needs which justify the allocation of additional personnel units.]

(6) Each local district is entitled to a basic support allocation of \$400 for each personnel unit activated under this section. Local districts may expend these funds to provide special instructional materials and related services, pupil evaluation services, or personnel travel in multicounty or multicity school districts, in accordance with rules adopted by the commissioner and approved by the State Board of Education.

(7) [(6)] Any personnel units allocated under this subsection but not utilized by the local district may be reallocated by the commissioner in the manner described in Subdivision (5) of this subsection.

(e) [(d)] Professional personnel for the operation and maintenance of a program of special education shall be:

(1) teachers of handicapped students, [children teachers] including itinerant teachers whose duties may or may not be performed in whole or in part on the campus of a school;

(2) special education related service personnel, including occupational therapists, physical therapists, nurses, orientation and mobility instructors, and other noneducational personnel who are otherwise professionally licensed by state or national certification recognized by the commissioner of education [directors]; and

(3) special education support personnel, including special education directors, special education supervisors, special education counselors, special education visiting teachers, psychologists, educational diagnosticians, and other pupil evaluation specialists [supervisors];

[(4) special education counselors;

[(5) special service teachers, such as itinerant teachers of the homebound and visiting teachers, whose duties may or may not be performed in whole or in part on the campus of any school; and

~~[(6) psychologists, educational diagnosticians, and other pupil evaluation specialists. The minimum salary for such specialist to be used in computing salary allotment for purposes of this section shall be established by the commissioner of education].~~

~~[(f) [(e)] Paraprofessional personnel for the operation and maintenance of a program of special education shall consist of persons engaged as teacher aides, who may or may not hold a teacher certificate. [The qualifications, and minimum salary levels of paraprofessional personnel for salary allotment purposes of this section shall be established by the commissioner of education. The annual salary for a special education teacher aide engaged in a 10, 11, or 12 months special education program approved by the commissioner of education shall be the approved monthly base salary, plus increments for experience, multiplied by 10, 11, or 12, as applicable.]~~

~~[(g) Certification standards for professional and paraprofessional personnel authorized in Subsections (e) and (f) of this section shall be developed by the commissioner, approved by the State Board of Education, and reviewed periodically. The standards shall be independent of certification or endorsement in other fields and may include requirements for additional training and recertification as necessary.~~

~~[(h) Except as provided by Subsection (i) of this section, the minimum salary levels, annual salaries, months of service, and personnel unit values for all authorized personnel shall be determined by the provisions of Section 16.056 of this code. If positions authorized in this section are not specifically provided for in Section 16.056, the commissioner shall add those positions to the Texas Public Education Compensation Plan, in accordance with Section 16.056(e) of this code.~~

~~[(f) Any school district, at its expense, may employ any special education personnel in excess of its state allotment and may supplement the minimum salary allotted by the state for any special education personnel, and any district is authorized at local expense to pay for all or part of further or continuing training or education of its special education personnel.]~~

~~[(i) [(g)] Special education unit personnel may be employed [and/or utilized] on a full-time, part-time, or consultative basis[, or may be allotted by the commissioner of education, pursuant to cooperative districts' agreement, jointly to serve two or more school districts]. Any school district may, with the commissioner's approval, utilize its personnel unit allocations to employ authorized personnel on a 10-, 11-, or 12-month basis, in accordance with rules adopted by the State Board of Education. Handicapped students teachers, paraprofessional personnel, or related service personnel employed on an extended basis under this subsection shall, during the extended period of their contract, only be engaged in pupil evaluations or in direct service delivery to handicapped students for which the disruption of continuous services may result in severe regression. [Two or more school districts may operate jointly their special education program and any school district may contract where feasible with any other school district for all or any part of the program of special education for the children of either district, under rules and regulations established by the commissioner of education.]~~

~~[(j) In accordance with rules adopted by the State Board of Education, local districts may jointly operate their special education programs. Personnel units and other funds to which the cooperating districts are entitled under this section may be allocated to the districts jointly, as cooperative units or cooperative funds, in accordance with the cooperative districts' agreement.~~

~~[(k) Any local district, special education cooperative, or regional education service center may contract with any public or private facility, institution, or agency within or outside of this state for the provision of services to handicapped~~

students approved under rules adopted by the State Board of Education. Contracts for residential placements, including placements with the Texas Department of Mental Health and Mental Retardation and its community facilities, Texas School for the Blind, Texas School for the Deaf, and other public or private agencies, institutions, or facilities, shall be approved by the commissioner. The rules shall provide for approval of services only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. Either the whole or a part of a facility or program may be approved. Rules relating to the approval process shall include provisions designed to ensure that no contract is approved which:

- (1) involves the delivery of unapproved services;
- (2) involves the delivery of services which the district is capable of providing or is developing the capability to provide; or
- (3) is not cost-effective when compared with other alternatives.

(l) Except as provided by Subsection (m) of this section, contracts for residential placements when approved may be paid for from a combination of federal, state, and local funds. The local share of the total contract cost per pupil is that portion of the local tax effort (total dollars generated by debt service and maintenance taxes) which exceeds the district's local fund assignment, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that which remains after subtracting the local share. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the state share is that which remains after subtracting the local share from that portion of the contract which involves the costs of instructional and related services. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program.

(m) If the state is managing conservator of a student placed in a private residential facility, the total cost of the residential placement shall be paid from state and federal funds. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the total of that portion of the contract which involves the costs of instructional and related services of the placement shall be paid from state and federal funds. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program. The State Board of Education shall adopt rules governing the use of federal funds as supplemental or partial payment of the local or state share under Subsections (l) and (m) of this section.

(n) The resident district has the ultimate responsibility for providing or causing the provision of appropriate services to each handicapped student. If the district contracts for the provision of services, rather than providing the services of its own accord, then that district retains the responsibility of overseeing the implementation of the student's individualized education plan as well as the responsibility of an annual reevaluation of the appropriateness of the arrangement. An approved facility, institution, or agency with whom the district contracts shall assume, as a part of the contract, the responsibility of providing the district with periodic reports of services the student has received or will receive in accordance with the terms of the contract, as well as diagnostic or other evaluative information which the district requires in order to fulfill its obligations under this section. The State Board of Education shall adopt rules designed to effectuate this subsection.

~~(h) Each school district is entitled to an allotment for special materials and consultant and appraisal services of not less than \$500 for each special education teacher employed to fill a personnel unit allocated to the district under~~

~~Subsection (e) of this section. Funds allocated must be spent in accordance with the guidelines established for at least one of the above mentioned services as defined by the commissioner. Funds for the purposes stated above may be allocated to regional education service centers for the cooperative use of school districts.~~

~~[(i)] The minimum monthly base pay and increments for teaching experience for a handicapped children teacher or a special service teacher conducting a 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a classroom teacher as provided in Subchapter B of this chapter; provided that special education teachers shall have qualifications approved by the commissioner of education. The annual salary of special education teachers shall be the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.~~

~~[(j)] The minimum monthly base pay and increments for teaching experience for special education counselors, supervisors, evaluation personnel, and directors engaged in a 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a counselor, supervisor, evaluator, or director as provided in Subchapter B of this chapter; provided that such counselors, supervisors, evaluation personnel, and directors shall have qualifications approved by the commissioner of education. The annual salary of special education counselors, supervisors, evaluation personnel, and directors shall be the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.]~~

~~[(o) [(k)] The salary costs of special education teacher units, other professional and paraprofessional units authorized in [Subsections (e), (d), and (e) of] this section, [and] operating costs as provided in Subsection (d)(6) of this section and state-portion contract costs as provided in Subsections (l) and (m) of this section [(h)], computed as other costs of the Foundation School Program for local fund assignment purposes, shall be paid from the Foundation School Program [School] Fund. Provided further, that any school district may supplement any part of the comprehensive special education program it operates or participates in with funds or resources [sources] available to it from local sources, public or private. Local enrichment may take the form of but is not limited to employing personnel in excess of the state allocation or supplementing minimum salaries of any personnel employed by the district, and any district may at local expense pay for all or part of further or continuing training or education of its special education personnel.~~

~~[(l)] Under rules and regulations of the State Board of Education, eligible school districts, special education cooperatives, and regional education service centers may contract with nonprofit community mental health or mental retardation centers, public or private, or any other nonprofit organization, institution, or agency approved by the State Board of Education, for the provision of services to handicapped children as defined by this section, who reside with their parents or guardians.]~~

~~[(p) [(m)] The legislature shall set a limit on the amount of funds that may be expended under the provisions of this section each year in the General Appropriations Act. Should the amount of funds required to fully fund the provisions of this section pursuant to the rules and regulations of the State Board of Education exceed the amount set by the legislature, the commissioner, with the approval of the board, shall make such adjustments as are necessary to reduce the total cost of the special education program to the limit set by the legislature. The commissioner may make allocations under Subsection (d)(5) of this section, not to exceed \$3 million a year, from the sum appropriated to fund the provisions of this section. The restriction on the dollar amount available under~~



~~Subsection (d)(5) does not apply to any funds remaining from the sum appropriated after all other allocations are made or to the remaining balance of unexpended funds carried over from the previous fiscal year. [The commissioner shall make further adjustments as necessary to ensure that, for the 1977-1978 school year, no school district which serves less than 12 percent of its students in special education programs, as determined in accordance with the provisions of Subsection (c) of this section, shall receive an allocation of special education personnel units that is smaller than that district's allocation for the 1976-1977 school year, unless that district is serving a smaller percentage of handicapped children in the 1977-1978 school year than it did in the 1976-1977 school year; and that no school district which serves more than 12 percent of its students in special education programs, as determined in accordance with the provisions of Subsection (c) of this section, shall receive an allocation of special education personnel units that is smaller than that district's allocation for the 1976-1977 school year.]~~

(g) ~~(h)~~ The commissioner, with the approval of the State Board of Education, shall adopt rules necessary to ensure that services to handicapped children shall be provided first to handicapped children not receiving an education and then to handicapped children, within each disability, with the most severe handicaps, who are receiving an inadequate education. The State Board of Education shall approve the definitions of levels of severity that the commissioner develops for the purposes of this subsection. The commissioner shall further develop rules necessary to ensure that sufficiently detailed records are kept and reports received to allow meaningful evaluation of the effectiveness of the policies and procedures adopted under this subsection.

SECTION 22. Section 21.033, Texas Education Code, as amended, is amended to read as follows:

Sec. 21.033. EXEMPTIONS. (a) The following classes of children are exempt from the requirements of compulsory attendance:

(1) any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship;

(2) any child who is handicapped, as defined in Section 16.104 of this code, and who cannot be appropriately served by the resident district in accordance with the requirements of Section 21.032 of this code ~~[has a physical or mental handicap that:~~

~~[(A) is not of a temporary and readily remediable nature, and~~

~~[(B) according to the great weight and preponderance of adequate diagnostic and evaluative information of a current nature, consisting of both specialty medical examinations and pertinent specialty assessments by qualified personnel regularly engaged in the provision of special education and related services to handicapped individuals, renders the child's attendance in regular classrooms or in special educational facilities supported with tax funds useless or inconsistent with the child's best interest;]~~

(3) any child who has a physical or mental condition of a temporary and remediable nature which renders such child's attendance unfeasible and who holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from such remedial treatment;

(4) any child more than 17 years of age who has satisfactorily completed the work of the ninth grade and who presents to the chief administrator of the school which such child would otherwise attend satisfactory evidence showing that his services are needed in support of a parent or other person standing in a parental relation to the child; and

(5) any child expelled in accordance with the requirements of law.

(b) This section does not relieve a resident district, as defined by Section 16.104 of this code, of its fiscal and administrative responsibilities under that section or of its responsibility to provide a handicapped child with a free appropriate public education.

SECTION 23. Subsections (a) and (b), Section 12.11, Texas Education Code, as amended, are amended to read as follows:

(a) The commissioner of education, annually at a meeting of the State Board of Education held on or before the second Saturday ~~(first Monday)~~ in May, shall recommend the names of 15 persons, no two of whom shall live in the same congressional district, for appointment to the textbook committee for a one-year term.

(b) Each of the persons so named shall be an experienced and active educator engaged in teaching in the public schools of Texas. At least a majority of the members of the committee shall be classroom teachers, and all members shall be appointed because of unusual backgrounds of training and recognized ability as teachers in the subject fields for which adoptions are to be made during the year of appointment. At least one member shall be knowledgeable in the field of special education.

SECTION 24. Section 11.10, Texas Education Code, as amended, is amended by amending the heading of Section 11.10 and Subsection (s) to read as follows:

Sec. 11.10. REGIONAL [SPECIAL] DAY SCHOOLS FOR THE DEAF.

(s) Operating costs for the program in each regional day school program for the deaf shall be determined and paid on the following basis:

(1) An estimated allocation of \$2,700 for each student enrolled in the program of the regional day school program for the deaf in any current year.

(2) Teachers, principals, supervisors, counselors, para-professional and supporting personnel shall be employed in such numbers as the Central Education Agency finds to be necessary to establish and operate the regional day school programs for the deaf, and such numbers shall not be less than student-professional ratios known to be requisite for success in education of deaf children. Salaries of all personnel employed in the regional day school programs for the deaf shall be determined in accordance with policies established by the State Board of Education.

(3) Local districts may receive allocations for transportation of students participating in the regional day schools program on the same basis as that provided for in Section 16.206(h) of this code.

SECTION 25. Section 1.04, Texas Education Code, as amended, is amended to read as follows:

Sec. 1.04. APPLICABILITY. (a) This code shall apply to all educational institutions supported either wholly or in part by state tax funds unless specifically excluded.

(b) This code shall not apply to those facilities and institutions under the control and direction of the Texas Department of Mental Health and Mental Retardation or to the institutions for delinquent, dependent and neglected children under the control and direction of the Texas Youth Council except as specifically provided in Subchapter E of Chapter 30 of this code and in Section 16.104.

(c) Any educational institution supported either wholly or in part by state tax funds shall, if undertaking to provide educational services to any individual within the jurisdiction or geographical boundaries of the educational institution, provide equal educational opportunities ~~[services]~~ to all individuals within its jurisdiction or geographical boundaries pursuant to the provisions of this code

and pursuant to the provisions of regulations promulgated by the Central Education Agency to give effect to the intent of the legislature in its enactment of this code. No individual otherwise eligible for educational services through an educational institution supported either wholly or in part by state tax funds may deny services to any handicapped student as defined in Section 16.104 ~~[individual solely on the basis of the individual's having a physical or mental handicap]~~, but the educational institution shall instead be obligated to provide handicapped individuals such special educational services as might from time to time be authorized by law or, where expressly authorized, to assist in and contribute toward the provision of appropriate special educational services in cooperation with other educational institutions and other appropriate agencies, institutions, or departments.

(d) Notwithstanding the other provisions of this section, employees of the Texas Youth Council in academic or vocational programs shall be members of the Teacher Retirement System of Texas under Chapter 3 of this code.

SECTION 26. Section 30.81, Texas Education Code, as amended, is amended to read as follows:

Sec. 30.81. PURPOSE. The purpose of this subchapter is to provide the necessary means to extend the per capita allocation from the state available fund to wards of the Texas Youth Council residing in state residential facilities for delinquent or dependent and neglected children and to those handicapped persons residing in state residential facilities ~~[for the mentally retarded]~~ under the control and direction of the Texas Department of Mental Health and Mental Retardation, and for the purpose of providing such state available funds for educational purposes, the educational programs in state residential care facilities for delinquent, dependent or neglected children, and the handicapped ~~[mentally retarded]~~ shall be deemed to be educational services provided by public free schools.

SECTION 27. Section 11.18(c), Texas Education Code, as amended, is amended to read as follows:

(e) Funds shall be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school credit programs to eliminate illiteracy in Texas and to implement and support a statewide program to meet the total range of adult needs for adult education, related skill training, and pilot programs to demonstrate the effectiveness of the community education concept ~~[using not more than five percent of the funds allocated for adult education]~~. An additional sum of money may be appropriated for the purpose of skill training in direct support of industrial expansion and start-up, in those locations, industries, and occupations designated by the Texas Industrial Commission, when such training is also in support of the basic purposes of this section.

SECTION 28. (a) All residential placements of handicapped persons made prior to the effective date of this Act are subject to Sections 16.104(k), (l), and (m), Texas Education Code, as amended by this Act.

(b) Members of the state textbook committee holding office on the effective date of this Act shall serve for the remainder of the terms to which they were appointed. If no serving member qualifies, a member knowledgeable in special education shall be appointed in accordance with Section 12.11, Texas Education Code, as amended by this Act, to the first vacancy on the board or when those terms expire, whichever occurs first.

SECTION 29. (a) Sections 11.09, 11.10(a)-(m), 11.101, 11.15, 11.16, 11.161, 11.27, 11.29(d), 15.12(c), 16.176, 20.03(c)-(g), 21.0331, 21.163, and 21.170, Texas Education Code, as amended, are repealed.

(b) Section 16.104(q), Texas Education Code, as amended, is repealed.

(c) The repeal of Section 11.27, Texas Education Code, as amended, does not affect a contract entered into before the effective date of this Act if funds are available to the Central Education Agency for payment under the contract after the effective date of this Act.

SECTION 30. (a) Except as provided by Subsection (b) of this section, this Act takes effect for the 1979-1980 school year.

(b) Section 29(b) of this Act takes effect September 1, 1980.

SECTION 31. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms,

#### Amendment No. 2 - Blanton

Amend C.S.S.B. No. 350 on page 44, line 17, by striking "full-time, part-time, or consultative" and inserting "full-time or [-] part-time [~~or consultative~~]"

#### Amendment No. 3 - Heatly and J. Edwards

Amend C.S.S.B. No. 350 by adding a new Section 12, and renumbering succeeding sections accordingly, to read as follows:

SECTION 12. Section 16.254(d), Texas Education Code, as amended, is amended to read as follows:

(d) Notwithstanding the provisions of Subsection (b) of this section, for the 1979-1980 [~~1977-1978~~] school year and each year of the biennium ending August 31, 1981 [~~1979~~], no school district shall receive less state aid, plus pay raises exclusive of service increments, for foundation personnel provided by Section 16.055(b) of this code, per student in average daily attendance than it received per student in average daily attendance under the Foundation School Program for the 1978-1979 [~~1976-1977~~] school year.

#### Amendment No. 4 - Davis

Amend C.S.S.B. No. 350 on page 2, line 7, by inserting the following language after "\$1,087"

"or such greater sum as may be provided in the General Appropriations Bill"

#### Amendment No. 5 - Heatly

Amend C.S.S.B. No. 350 as follows:

1. On page 18, line 23, strike "For" and substitute "Except as otherwise provided by this subsection, for [~~For~~]"

2. On page 19, line 4, add the following after "smaller.": If H.B. No. 1060, Acts of the 66th Legislature, Regular Session, 1979, is enacted and is effective for the 1979 tax year, each school district's share of its guaranteed entitlement for the 1979-1980 school year shall be an amount equal to the product of an index rate of .0016 multiplied by the index value of the property in the district.

The amendments were read.

Senator Mauzy moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 350** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mauzy, Chairman; Brooks, Snelson, Santiesteban and Vale.

#### **SENATE BILL 1251 ON THIRD READING**

Senator Traeger moved to suspend the regular order of business to take up on its third reading and final passage:

**S.B. 1251**, Relating to the authority of the governor to transfer programs of certain offices and agencies to other agencies. (Submitted by Governor as an emergency)

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Williams.

Nays: Mauzy, Vale.

Absent: Moore, Parker.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2. (Same as previous roll call)

#### **COMMITTEE SUBSTITUTE SENATE BILL 772 ON SECOND READING**

Senator Harris moved to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 772**, Relating to regulation of air carrier access to certain airports.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Mengden, Moore, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Andujar, Blake, Howard, Meier, Ogg.

Absent: Parker.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Amend **C.S.S.B. 772** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1(c), Chapter 344, Acts of the 49th Legislature, 1945, as amended (Article 46c-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The term "air carrier" means every person owning, controlling, operating or managing any aircraft as a common carrier in the transportation of persons or property for compensation or hire which conducts all or part of its operation in the State of Texas. Except as specifically provided otherwise herein, ~~[, providing that]~~ the term "air carrier" as used this Act shall not include, and this Act shall not apply to, air carriers operating within the State of Texas pursuant to the provisions of a certificate of public convenience and necessity issued by the Civil Aeronautics Board under the Federal Aviation Act of 1958, as now or hereafter amended.

SECTION 2. Subdivision 3, Section 6, Chapter 344, Acts of the 49th Legislature, 1945, as amended (Article 46c-6, Vernon's Texas Civil Statutes), is amended by adding Paragraph (h) to read as follows:

(h) No city with a population of 800,000 or greater, according to the last preceding federal decennial census, may, if physical facilities are available, deny any air carrier access to any public airport for purposes of providing interstate or intrastate air carrier service, unless such denial is found to be in the public interest of the State of Texas by the Commission; provided, however that in the exercise of its proprietary powers and rights as an airport owner or operator any such city may adopt and enforce, with respect to any of its secondary or satellite airports which are part of its regional airport plan, a uniform mileage limitation of not less than 600 miles upon the first stage length of departing, and the last stage length of arriving, flights of air carriers. For purposes of this paragraph, the term "air carrier" shall apply to both interstate and intrastate air carriers, including those operating pursuant to the provisions of a certificate of public convenience and necessity issued under the Federal Aviation Act of 1958 as amended. The Commission shall promulgate and administer rules and regulations in furtherance of this paragraph.

SECTION 3. The interest of the State of Texas in assuring that the general public of the entire state is provided low-cost, commercial air service to convenient airports in major urban areas, the importance of this legislation, and the crowded conditions of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that the Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Harris offered the following amendment to the pending amendment:

Amend the floor substitute by adding the word "air" after the figures 600 and before the word miles.

The amendment to the pending amendment was read and was adopted.

The pending amendment as amended was then adopted.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### **RECORD OF VOTE**

Senator Howard asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### **COMMITTEE SUBSTITUTE SENATE BILL 772 ON THIRD READING**

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 772** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Mengden, Moore, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Andujar, Blake, Howard, Meier, Ogg.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

#### **COMMITTEE SUBSTITUTE SENATE BILL 597 ON SECOND READING**

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 597**, Relating to the indictment, trial, and punishment of certain youthful offenders; amending the Penal Code by adding a new Title 12 called the Youthful Offenders Act; amending Subsection (A), Section 51.13, Family Code, as amended; amending Subsection (a), Section 51.04, Family Code, as amended; amending Subsection (a), Section 51.14, Family Code; and amending Section 8.07, Code of Criminal Procedure, 1965, as amended.

The bill was read second time and was passed to engrossment.

#### **COMMITTEE SUBSTITUTE SENATE BILL 597 ON THIRD READING**

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 597** be placed on its third reading and final passage.

The motion prevailed by the following vote: Ycas 31, Nays 0.

The bill was read third time and was passed.

### MESSAGE FROM THE HOUSE

House Chamber  
May 15, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 126, A bill to be entitled An Act relating to the jurisdiction and permit procedures of the Harris-Galveston Coastal Subsidence District; amending Section 43, Chapter 284, Acts of the 64th Legislature, 1975, and adding Subsection (c) to Section 19.

HB 806, A bill to be entitled An Act relating to the exemption of certain military pay and allowances from the inheritance tax.

HB 1224, A bill to be entitled An Act relating to the period of time within which a peace officer or reserve peace officer must obtain certification from the Commission on Law Enforcement Officer Standards and Education.

HB 1423, A bill to be entitled An Act relating to the administration of medication to students by school district employees.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### MOTION TO PLACE SENATE BILL 1149 ON SECOND READING

Senator Meier moved to suspend the regular order of business to take up for consideration at this time:

**S.B. 1149** Relating to the financing and conduct of primary elections.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members of the Senate present): Yeas 20, Nays 11.

Yeas: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Braecklein, Brooks, Clower, Doggett, Kothmann, Mauzy, Parker, Patman, Schwartz, Truan, Vale.



**HOUSE BILL 1431 ON SECOND READING**

Senator McKnight moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 1431**, Relating to the imposition, collection, administration, civil and criminal enforcement, and allocation of taxes on motor fuels.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Andujar, Bracklein, Brooks, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Blake, Howard, Mauzy, Patman.

Absent: Clower.

The bill was read second time and was passed to third reading.

**RECORD OF VOTES**

Senators Patman, Mauzy, Blake and Howard asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 1431 ON THIRD READING**

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1431** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4. (Same as previous roll call)

The bill was read third time and was passed.

**RECORD OF VOTES**

Senators Patman, Mauzy, Blake and Howard asked to be recorded as voting "Nay" on the final passage of the bill.

**CONFERENCE COMMITTEE ON HOUSE BILL 304**

Senator Price called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 304** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 304** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Price, Chairman; Kothmann, Howard, Traeger and Brooks.

#### **HOUSE BILL 845 ON SECOND READING**

On motion of Senator McKnight and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 845**, Relating to rates charged for supplying gas under a contract between a gas utility and an industrial customer.

The bill was read second time and was passed to third reading.

#### **RECORD OF VOTES**

Senators Doggett, Mauzy, Clower and Patman asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **HOUSE BILL 845 ON THIRD READING**

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 845** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Andujar, Blake, Bracklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Clower, Doggett, Mauzy, Patman.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

#### **COMMITTEE APPOINTED**

Pursuant to the provisions of **S.R. 462**, the President announced the appointment of the following committee: Senators Kothmann, Andujar, Williams, Mengden and Longoria.

#### **COMMITTEE SUBSTITUTE SENATE BILL 981 ON SECOND READING**

Senator Howard moved to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 981**, Relating to the interception and use of wire or oral communications; providing a penalty. (Submitted by Governor as an emergency.)

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Andujar, Blake, Braecklein, Brooks, Farabec, Harris, Howard, Jones of Taylor, Longoria, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Short, Snelson, Traeger, Vale, Williams.

Nays: Clower, Creighton, Doggett, Jones of Harris, Kothmann, Mauzy, McKnight, Parker, Schwartz, Truan.

The bill was read second time and was passed to engrossment by the following vote: Yeas 20, Nays 11.

Yeas: Andujar, Blake, Braecklein, Brooks, Farabee, Harris, Howard, Jones of Taylor, Longoria, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Clower, Creighton, Doggett, Jones of Harris, Kothmann, Mauzy, McKnight, Parker, Schwartz, Truan, Vale.

#### **SENATE BILL 257 WITH HOUSE AMENDMENT**

Senator McKnight called **S.B. 257** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Slack

Substitute the following for S.B. No. 257:

#### **A BILL TO BE ENTITLED**

#### **AN ACT**

relating to the authority of the Railroad Commission of Texas to permit production of oil or gas or oil and gas in a commingled state in certain cases to prevent waste, promote conservation, or protect correlative rights.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 85.046, Natural Resources Code, is amended to read as follows:

Sec. 85.046. **WASTE.** (a) The term "waste," among other things, specifically includes:

- (1) operation of any oil well or wells with an inefficient gas-oil ratio and the commission may determine and prescribe by order the permitted gas-oil ratio for the operation of oil wells;
- (2) drowning with water a stratum or part of a stratum that is capable of producing oil or gas or both in paying quantities;
- (3) underground waste or loss, however caused and whether or not the cause of the underground waste or loss is defined in this section;
- (4) permitting any natural gas well to burn wastefully;
- (5) creation of unnecessary fire hazards;
- (6) physical waste or loss incident to or resulting from drilling, equipping, locating, spacing, or operating a well or wells in a manner that reduces or tends to reduce the total ultimate recovery of oil or gas from any pool;
- (7) waste or loss incident to or resulting from the unnecessary, inefficient, excessive, or improper use of the reservoir energy, including the gas energy or water drive, in any well or pool; however, it is not the intent of this

section or the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, to require repressuring of an oil pool or to require that the separately owned properties in any pool be unitized under one management, control, or ownership;

(8) surface waste or surface loss, including the temporary or permanent storage of oil or the placing of any product of oil in open pits or earthen storage, and other forms of surface waste or surface loss including unnecessary or excessive surface losses, or destruction without beneficial use, either of oil or gas;

(9) escape of gas into the open air in excess of the amount necessary in the efficient drilling or operation of the well from a well producing both oil and gas; and

(10) production of oil in excess of transportation or market facilities or reasonable market demand, and the commission may determine when excess production exists or is imminent and ascertain the reasonable market demand.

(b) Notwithstanding the provisions contained in this section or elsewhere in this code or in other statutes or laws, the commission may permit production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas where the commission, after notice and hearing, has found that producing oil or gas or oil and gas in a commingled state will prevent waste, promote conservation, or protect correlative rights.

SECTION 2. Section 86.012, Natural Resources Code, is amended to read as follows:

Sec. 86.012. DEFINITION OF WASTE. (a) The term "waste" includes:

(1) the operation of an oil well or wells with an inefficient gas-oil ratio;

(2) the drowning with water of a stratum or part of a stratum capable of producing gas in paying quantities;

(3) permitting a gas well to burn wastefully;

(4) the creation of unnecessary fire hazards;

(5) physical waste or loss incident to or resulting from so drilling, equipping, or operating a well or wells as to reduce or tend to reduce the ultimate recovery of gas from any pool;

(6) the escape of gas from a well producing both oil and gas into the open air in excess of the amount that is necessary in the efficient drilling or operation of the well;

(7) the production of gas in excess of transportation or market facilities or reasonable market demand for the type of gas produced;

(8) the use of gas for the manufacture of carbon black without first having extracted the natural gasoline content from the gas, except it shall not be necessary to first extract the natural gasoline content from the gas where it is utilized in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet of gas;

(9) the use of sweet gas produced from a gas well for the manufacture of carbon black unless it is used in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet and unless the sweet gas is produced from a well located in a common reservoir producing both sweet and sour gas;

(10) permitting gas produced from a gas well to escape into the air before or after the gas has been processed for its gasoline content, unless authorized as provided in Section 86.185 of this code;

(11) the production of natural gas from a well producing oil from a stratum other than that in which the oil is found unless the gas is produced in a separate string of casing from that in which the oil is produced;

(12) the production of more than 100,000 cubic feet of gas to each barrel of crude petroleum oil unless the gas is put to one or more of the uses authorized for the type of gas so produced under allocations made by the commission or unless authorized as provided in Section 86.185 of this code; and

(13) underground waste or loss however caused and whether or not defined in other subdivisions of this section.

(b) Notwithstanding the provisions contained in this section or elsewhere in this code or in other statutes or laws, the commission may permit production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas where the commission, after notice and hearing, has found that producing oil or gas or oil and gas in a commingled state will prevent waste, promote conservation, or protect correlative rights.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator McKnight moved to concur in House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 1149 ON SECOND READING**

Senator Meier moved to suspend the regular order of business to take up for consideration at this time:

**S.B. 1149**, Relating to the financing and conduct of primary elections.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Braecklein, Clower, Doggett, Kothmann, Mauzy, Parker, Patman, Schwartz, Truan, Vale.

The bill was read second time.

Senator Meier offered the following committee amendment to the bill:

Strike Section 6 of the bill as it presently reads and replace with the following Section:

“SECTION 6. Subdivision 5, Section 196, Texas Election Code, as amended (Article 13.18, Vernon's Texas Election Code), is amended to read as follows:

Subdiv. 5. The funds received by the county executive committee from contributions, fees and assessments paid by candidates, and expenses paid by the secretary of state shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be retained in the primary fund, and the balance

reported to the secretary of state as required by Section 186a of this code. The county executive committee is authorized to invest the primary fund by deposit with any federally insured institution; provided, however, that the required length of time of the deposit shall not extend beyond 30 days prior to the next general primary election. After the primary election has been held and the secretary of state has determined that a deficit exists in the state primary fund resulting from the cost of conducting the primary election, then the secretary of state may require the county chairman to remit a portion of the balance in the county primary fund if the secretary determines that an excess of funds are in the county primary fund; however, the secretary must allow for the retention of a surplus amount which, in his opinion, will be adequate for the chairman to use for initial expenses for the next primary election. The county chairman is the custodian of the county primary fund and serves in that capacity as a fiduciary for the fund. The secretary of state by directive may prescribe procedures for accounting for the county primary fund, including the keeping of checks, receipts, invoices, and other documents that indicate the nature or amount of deposits to or expenditures from the fund. The secretary may inspect any records relating to the county primary fund at any place and at any time. A county chairman shall mail the records to the secretary on request at the time specified by the secretary.

The committee amendment was read.

Senator Meier offered the following amendment to the committee amendment:

Make the following amendments to committee amendment to Senate Bill 1149:

- 1) At Section 6 subdivision 5, line 38, page 1 add following the word "fund" and before the period the following: and the inspection of any record relating to the primary fund.
- 2) Strike the sentence beginning with the word "The" at line 38, page 1 and ending with the word "time." at line 39, page 1.

The amendment to the committee amendment was read.

Senator Patman offered the following substitute for the amendment to the committee amendment:

Make the following amendments to committee amendment to Senate Bill 1149:

- 1) At Section 6 subdivision 5, line 38, page 1 add following the word "fund" and before the period the following: and the inspection of any record relating to the primary fund.

The substitute for the amendment to the committee amendment was read.

Question - Shall the substitute for the amendment to the committee amendment be adopted?

#### **MOTION TO ADJOURN**

Senator Parker moved that the Senate stand adjourned until 10:30 o'clock a.m. tomorrow.

**RECESS**

Senator Howard made the substitute motion that the Senate take recess until 2:00 o'clock p.m. today.

The motion to recess prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Harris, Howard, Jones of Taylor, Kothmann, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Short, Snelson, Traeger, Truan, Vale, Williams.

Nays: Clower, Doggett, Jones of Harris, Longoria, Parker.

Absent: Farabee, Schwartz.

Accordingly, at 12:23 o'clock p.m. the Senate took recess until 2:00 o'clock p.m. today.

**AFTER RECESS**

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

**MESSAGE FROM GOVERNOR**

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas  
May 14, 1979

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES, SIXTY-SIXTH LEGISLATURE, REGULAR SESSION:

Pursuant to Article IV, Section 14, I herewith return to you House Bill 2153 vetoed, for the following reasons:

This bill continues a trend started in previous legislatures, that if allowed to continue would negate any attempt by the state, through the Parks and Wildlife Department, to regulate the taking of wildlife in this state. If this continues we would have no "uniform" wildlife regulations. If the legislature desires that there be no uniform regulation, and desires each county to regulate wildlife in that county, then the legislature should abolish all of the "uniform" regulations.

If we allowed each county to regulate health regulations applicable to the whole state and establish their own, we would have 254 different "state" health regulations. The same principle holds on various statewide laws — they should either be applicable to all or applicable to none.

I would hope that future legislatures would repeal Section 61.202 of the Parks and Wildlife Code that sets up veto power by some 20 counties. In that same light, it is obvious I am against adding any more counties to the list, and therefore, I return House Bill 2153 to you unsigned.

/s/W. P. Clements, Jr.  
Governor of Texas

**SENATE RESOLUTION ON FIRST READING**

On motion of Senator Mengden and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

**S.C.R. 88** by Mengden Jurisprudence  
Memorializing Congress to initiate amendment to provide for initiative and referendum at Federal level.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was referred to the Committee on State Affairs, Subcommittee on Nominations:

Austin, Texas  
May 15, 1979

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS HISTORICAL COMMISSION:

For a six-year term to expire January 1, 1985:

MRS. JAMES F. BIGGART, JR. of Dallas, Dallas County, is replacing Mr. Henry L. Van De Walle, Sr. of San Antonio, Bexar County, who resigned.

TO BE A MEMBER OF THE BANKING SECTION, FINANCE COMMISSION OF TEXAS:

For a six-year term to expire February 1, 1985:

MR. GEORGE S. CONE of Rockport, Aransas County, is replacing Mr. Edwin Brown of Troup, Smith County, whose term expired. (representing Quartile II)

TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE BRAZOS RIVER AUTHORITY:

For a six-year term to expire February 1, 1985:

MR. JOHN LOUIS BURGESS of Waco, McLennan County, is replacing Mr. Lyndon Olson, Sr. of Waco, McLennan County, whose term expired.

Respectfully submitted,

/s/W. P. Clements, Jr.  
Governor of Texas

**MESSAGE FROM THE HOUSE**

House Chamber  
May 15, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE



SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

**H.C.R. 201** Commending the Honorable Jim Clark on the occasion of his retirement from the house

**H.C.R. 202** Commending the Honorable Price Daniel, Sr.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### **BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

<b>H.B. 305</b>	<b>H.B. 1590</b>
<b>H.B. 370</b>	<b>H.B. 2154</b>
<b>H.B. 455</b>	<b>H.B. 2161</b>
<b>H.B. 616</b>	<b>H.C.R. 160</b>
<b>H.B. 784</b>	<b>H.C.R. 165</b>
<b>H.B. 1067</b>	<b>H.C.R. 166</b>
<b>H.B. 1069</b>	<b>H.C.R. 167</b>
<b>H.B. 1318</b>	<b>H.C.R. 188</b>
<b>H.B. 1373</b>	<b>H.C.R. 194</b>
<b>H.B. 1491</b>	<b>H.C.R. 196</b>
<b>H.B. 1523</b>	<b>H.C.R. 197</b>
<b>H.B. 1575</b>	<b>H.C.R. 199</b>

#### **SENATE BILL 1149 ON SECOND READING**

The Senate resumed consideration of **S.B. 1149** on its second reading and passage to engrossment with a substitute by Senator Patman for the amendment to the committee amendment pending.

Question - Shall the substitute for the amendment to the committee amendment be adopted?

#### **REQUEST FOR PERMISSION FOR COMMITTEE ON INTERGOVERNMENTAL RELATIONS TO MEET**

Senator Snelson requested permission for the Committee on Intergovernmental Relations to meet while the Senate was in session.

There was objection and the request was denied.

(Senator Howard in Chair)

**SENATE BILL 1149 ON SECOND READING**

The Senate resumed consideration of **S.B. 1149** on its second reading and passage to engrossment with a substitute by Senator Patman for the amendment to the committee amendment pending.

Question - Shall the substitute for the amendment to the committee amendment be adopted?

(President in Chair)

Senator Clower moved to table the substitute amendment by Senator Patman.

The motion prevailed by the following vote: Yeas 23, Nays 6.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Williams.

Nays: Clower, Doggett, Kothmann, Longoria, Patman, Vale.

Absent: Moore, Price.

Question recurring on the amendment to the committee amendment, the amendment was adopted.

The committee amendment as amended was adopted.

Question - Shall the bill as amended be passed to engrossment?

**MOTION TO ADJOURN**

Senator Parker moved the Senate stand adjourned until 10:30 o'clock tomorrow.

The motion was lost by the following vote: Yeas 14, Nays 16.

Yeas: Braecklein, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Vale, Williams.

Nays: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Ogg, Price, Santiesteban, Short, Snelson, Traeger.

Absent: Moore.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 15, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

**H.B. 2153** the House has passed House Bill 2153, notwithstanding the objections of the Governor, by a vote of 90 ayes, 42 nays, 1 present not voting

**HJR 91**, A joint resolution proposing a constitutional amendment relating to the payment of assistance to the surviving dependents of certain public servants killed while on duty.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### **REPORT OF STANDING COMMITTEE**

By unanimous consent, Senator Jones of Harris submitted the following report for the Committee on Administration:

#### **H.C.R. 84**

#### **SENATE RULE 103 SUSPENDED**

On motion of Senator Brooks and by unanimous consent, the Posting Rule was suspended for those bills scheduled and not heard today in order that they might be heard tomorrow at 9:30 o'clock a.m. in Committee on Human Resources.

#### **SENATE RULE 103 SUSPENDED**

On motion of Senator Schwartz and by unanimous consent, the Posting Rule was suspended for those bills scheduled to be heard today in order that they might be heard tomorrow at 2:00 o'clock p.m. in the Committee on Natural Resources.

#### **SENATE BILL 1149 ON SECOND READING**

The Senate resumed consideration of **S.B. 1149** on its second reading and passage to engrossment.

Question - Shall the bill as amended be passed to engrossment?

Senator Meier offered the following amendment to the bill:

Amend Senate Bill 1149 at line 52, page 4 by striking Section 7 of the bill.

The amendment was read and was adopted.

Senator Clower offered the following amendment to the bill:

Amend the caption of SB 1149 to read as follows:

relating to the financing and conduct of May general and June run-off primary elections.

The amendment was read.

Pending discussion of the amendment, Senator Farabee occupied the Chair.

On motion of Senator Clower and by unanimous consent, the amendment was withdrawn.

Senator Mauzy offered the following amendment to the bill:

Amend **S.B. 1149** by striking Section 8 and replacing it with the following:

Sec. 8.. Effective February 1, 1980, Section 179a, Texas Election Code, as amended (Article 13.01a, Vernon's Texas Election Code), is amended to read as follows:

"179a. Affiliation with political party

"Subdivision 1. Parties to which affiliation requirements apply. As used in this section, the term 'political party' includes:

"(1) Parties with a state organization which make nominations by the primary election method;

"(2) Parties with a state organization which make nominations by the convention method; and

"(3) Parties without a state organization which may nominate candidates for county and precinct offices.

"Subdivision 2. Affiliation as prerequisite for participation in party affairs. (a) The primary elections, conventions, offices, and positions to which this section applies include those at the precinct, county, district, and state level, and also include those at the city level where a party coming within Subdivision 1 of this section also makes nominations for city offices.

"(b) Beginning on February 1, 1980, no person may vote in a primary election or participate in a convention of a political party, sign a petition or application to place the name of a candidate on a primary election ballot, be nominated by a party for public office, or be elected or selected to, or serve in, the position of executive committee member, delegate to any convention of a party, or presidential elector of a party, unless he is registered as a member of the party at the time the election or convention is held, the selection is made, the action is taken, or the service is rendered, as the case may be.

"(c) A person who files an application for a place on a primary ballot before the first Monday in February, 1980, need not be registered as a member of the party at the time the application is filed but must have filed his request for affiliation by the first Monday in February. A person who files an application after that date must be registered as affiliated with the party at the time the application is filed.

"(d) A person who signs the petition of a candidate for a place on a primary ballot in the 1980 elections need not be registered as a member of the party, but a signer may not be affiliated with any other party at the time of signing, and signing the petition disqualifies the person from affiliating with any other party before November 5, 1980.

"(e) A person registered as a member of a political party may sign a petition or application to place the nominees of a different party on a general election ballot if the person has not participated in a primary election or convention of the party in which he is registered during that voting year, but by signing the petition or application he becomes ineligible to participate in any primary election or convention of the party in which he is registered during the remainder of that voting year. A person who is registered as an 'Independent' or who has not declared any party preference may sign a petition or application to place the nominees of a party on the general election ballot.

"Subdivision 3. Voter applying for absentee ballot on federal post card application or as overseas voter. A voter who is not registered through the registrar's office but who applies for an absentee ballot for a primary election of a designated political party on a federal post card application for absentee ballot under the provisions of Subdivision 2a, Section 37 of this code (Article 5.05, Vernon's Texas Election Code) or who applies under the provisions of the federal Overseas Citizens Voting Rights Act or provisions of this code implementing that Act may vote in that party's primary elections without having affiliated with the party in any other manner. If he has registered through the registrar's office and the registration records show a different affiliation, the statement of party preference on the application for absentee ballot prevails, notwithstanding any other provision of this section, unless the registration records show the voter to be affiliated with a different political party that is also holding primary elections, in which event the county clerk shall send the voter the primary ballot of the party with which he is shown to be affiliated on the registration records, with an explanation of the reason for sending that ballot. Affiliation with a party through a statement of affiliation or preference on the application for an absentee ballot is not effective for any purpose other than voting in the party's primary elections. For other purposes, the voter must affiliate through the registrar's office.

"Subdivision 4. Voting limited ballot after removal to another county. In order for a voter to vote a limited ballot in a primary election of a political party under the provisions of Section 37c of this code (Article 5.05c, Vernon's Texas Election Code), he must have been registered as a member of that party in the county of his former residence at the time of his removal from that county and he must state on his application for a limited ballot that he was so registered. If the voter presents his registration certificate from the county of former residence, it must reflect that affiliation; but if he is voting on a statement of a lost certificate, his statement of affiliation on his application is sufficient proof of party affiliation to authorize the clerk to permit him to vote in that party's primary.

"Subdivision 5. (a) Proof of party affiliation for participation in primary election or convention. Except as provided in this subdivision or in Subdivision 3 or 4 of this section, no voter may vote in a primary election or participate in a precinct convention of a political party unless he is shown to be affiliated with that party on the then current updated list of registered voters. If the list of registered voters does not show him to be affiliated with that party, he nevertheless shall be permitted to participate, if otherwise eligible:

"(1) if he presents his registration certificate showing that he is affiliated with the party; or

"(2) if he makes an affidavit that he has affiliated with the party in accordance with law and that his registration certificate showing his affiliation has been lost or mislaid or has been used in applying for an absentee ballot and has not been returned to him. For a primary election, the affidavit shall be preserved with the records of the election in the same manner as other affidavits taken by the election officers. For a precinct convention, the affidavit shall be executed in duplicate and a copy shall be attached to and transmitted with each copy of the convention returns.

"(b) If a voter who applies by mail for an absentee ballot in a primary election is not shown to be affiliated with that party on the list of registered voters, the county clerk shall promptly notify the voter, either by telephone or by mail, that the voter must either submit his registration certificate showing that affiliation or his affidavit, as described in paragraph (a) of this subdivision, before he can be furnished a ballot for that primary.

"Subdivision 6. Criminal offenses. (a) It is unlawful for a person to vote in a primary election or to participate in a convention of a political party unless at that time he is affiliated with the party which is holding the primary election or the convention.

"(b) It is unlawful for a judge or clerk of a primary election, including the clerk for absentee voting, to permit a person to vote in a primary unless the voter is shown to be affiliated with the party in a manner provided in Subdivision 3, 4, or 5 of this section.

"(c) It is unlawful for a precinct chairman or anyone else to enter a name on the list of persons participating in a precinct convention unless the person is shown to be affiliated with the party holding the convention in a manner provided in Subdivision 4 or 5 of this section.

"(d) It is unlawful for the chairman of a precinct, county, senatorial district, or state convention knowingly to permit a person to participate in the convention if the person is not affiliated with the party holding the convention.

"(e) A violation of any provision of this subdivision is a Class A misdemeanor.

"Subdivision 7. Effect of party affiliation on independent or write-in candidate. (a) A person who is affiliated with a political party is ineligible to have his name printed on the general election ballot as an independent candidate for any office for which the party with which he is affiliated has a nominee, but his name may be printed on the ballot as an independent candidate if the party with which he is affiliated does not have a nominee for that office.

"(b) Affiliation with a political party or prior participation as a voter or candidate in a party primary or convention is not a bar to a person's being a write-in candidate in a general or special election.

"(c) Rules governing the eligibility of a member of a political party to sign the application or petition of an independent candidate are stated in the sections of this code pertaining to independent candidates."

Sec. . The Texas Election Code is amended by adding Section 179b to read as follows:

"179b. Procedures for affiliation and change of affiliation

"Subdivision 1. Methods of affiliation; duration. A voter who states a party preference on his application for registration, as provided in Subdivision 2 of this section, or who declares his preference subsequent to registration, as provided in Subdivision 4 or Subdivision 5 of this section, or who votes in a primary election of a party during the year 1978, or who in the year 1978 participates in a precinct convention of a party which is not holding primary elections, thereby becomes a member of that party until his registration is cancelled or until he changes his designation of that preference in the manner provided in Subdivision 5. No person may be affiliated with more than one party at the same time.

"Subdivision 2. Designation of affiliation at time of registering. Beginning on October 1, 1977, each applicant for a voter registration certificate shall designate on his application the name of the political party with which he wishes to affiliate, or if he does not wish to affiliate with any party, he shall enter the designation of 'Independent,' 'No preference,' or other notation of similar import in the space for party affiliation on the application form. The registrar shall show the designation of party affiliation on the voter's registration certificate and on the list of registered voters. When the registrar receives an application on which the voter designates that he has no party preference or on which no designation is made in the space for party affiliation, he shall show the designation of 'Independent' on the registration certificate and the list of registered voters.

"Subdivision 3. Voting in primary or participating in precinct convention in 1978. (a) Within 30 days after the second (runoff) primary in 1978, the county chairman of each political party holding a primary election in that year shall deliver to the registrar the list of registered voters used at the party's general primary and runoff primary in each election precinct in the county, marked to show the names of persons who voted at the election as provided elsewhere in this code. Within the same period the county clerk shall deliver to the registrar the lists of registered voters used in conducting the absentee voting in the primary elections. The registrar shall preserve these lists of registered voters until March 1, 1981.

"(b) Not less than 30 days nor more than 60 days after the date of the precinct conventions in 1978, the county clerk shall deliver to the registrar the affidavits of voters who participated in the 1978 precinct conventions of parties not holding primary elections that were executed under the provisions of Subsection 5 of Section 179a of this code (Article 13.01a, Vernon's Texas Election Code). The registrar shall preserve the affidavits until March 1, 1981. These provisions supersede any conflicting provisions in Subsection 5.

"(c) Before preparing the lists of registered voters for the voting year 1979, the registrar shall enter on the reverse side of the voter's application for registration and duplicate registration certificate (or, optionally, shall place directly into a computerized record of registered voters) the name of the political party in whose primary each voter voted or in whose precinct convention each voter participated as the designation of the voter's party affiliation; and this shall remain the designation until the voter changes it in the manner prescribed in Subdivision 5 of this section. The registrar shall show on the lists of registered voters prepared during the 1979 voting year the party affiliation of the persons who voted in the 1978 primaries or participated in the 1978 precinct conventions.

"Subdivision 4. Designation of affiliation by other voters registered before October 1, 1977. The notice to be given to voters who are mailed renewal registration certificates in the year 1977 and 1979 in regard to declaration of party affiliation is detailed in paragraph (b-1), Subdivision 2, Section 46a of this code (Article 5.14a, Vernon's Texas Election Code). When the registrar mails the renewal certificates to the voters in 1977 and 1979, he shall leave the space for party affiliation blank on the certificates mailed to voters who applied for registration before October 1, 1977, and who have not since become affiliated with a party or declared their status as an independent. If a voter who applied for registration before that date and whose registration will be continued in effect does not return the certificate for addition of party affiliation or other corrections, or if the voter returns the certificate for other corrections but does not state a party preference, the registrar shall show the voter as an 'Independent' on the list of registered voters, and shall show that designation on the renewal certificate mailed to the voter in 1981, if still registered, unless the voter has obtained a change in the designation before that time. If a voter whose renewal certificate is returned undelivered furnishes the registrar with information showing him entitled to continued registration without stating a party preference, the registrar shall show the voter as an 'Independent' on the corrected renewal certificate and on the list of registered voters.

"Subdivision 5. Change in designation of affiliation. (a) A registered voter may change the designation of his party affiliation as shown on the registration records by presenting to the registrar, in person or by mail, his registration certificate or his signed statement that the certificate has been lost or destroyed, along with his signed request for the change.

"(b) A registered voter may not make any change in his designation of party affiliation during the period beginning with the 29th day before a general primary election and ending with the day of the succeeding general election.

"(c) In addition to the prohibition in paragraph (b) of this subdivision, during the period beginning with February 1 effective for the year 1980 and thereafter, preceding a general primary election and ending with the day of the succeeding general election, a registered voter may not change his designation of party affiliation so as to become affiliated with a political party which is required to make its nominations by primary elections.

"(d) Upon receiving a proper request for a change in party affiliation, the registrar shall issue to the voter a corrected registration certificate and shall attach the request to the voter's application for registration. Where the registrar receives a request which is not timely, he shall return the voter registration certificate, if submitted, and the request to the voter and shall inform the voter of the reason for rejecting the request and the earliest date on which a valid request may be resubmitted to him.

"(e) The change in the designation of party affiliation is deemed to occur on the day that the registrar receives a valid request for the change. The rules for determining the date on which the registrar receives a request by mail are the same as those pertaining to an application for registration by mail.

"Subdivision 6. Voter registering during an election period. (a) Where a voter applies for registration during the period beginning with the 29th day before a general primary election and ending with the day of the succeeding general election, the statement of party preference on his application must conform to the rules stated in this subdivision.

"(b) Except as permitted in paragraph (c) of this subdivision, a voter who was registered either in the same county or in some other county of this state during that calendar year may not register as a member of any political party other than the one, if any, with which he was last registered under the previous registration. He must register either as a member of the same party, if he was registered as a member of a party, or as an 'Independent.' If a voter knowingly applies for registration as a member of any other party, except as permitted in paragraph (c), he commits a Class A misdemeanor.

"(c) If a voter was last registered as a member of a party without a statewide organization during that calendar year and the party does not have an organization in the county where he is applying for registration, he is free to make whatever designation of party affiliation he chooses. A voter is also free to affiliate with a party without a statewide organization if the party did not have an organization in the county where he was previously registered at the time of his removal from that county.

"(d) A voter who was not registered in this state at any time during that calendar year is free to make whatever designation of party affiliation he chooses, regardless of any previous affiliation in this state or elsewhere."

Sec. The Texas Election Code is amended by adding Section 179c, stating temporary rules for transition to the requirement that party affiliation be shown on the voter's registration record in order for the voter to participate in the affairs of a political party. Section 179c expires on February 1, 1980, and until then it reads as follows:

"179c. Transitional provisions on party affiliation

"Subdivision 1. On initial registration certificates issued pursuant to applications for registration which are received after September 30, 1977, the registrar shall show the voter's party affiliation as listed on the application. The registrar shall also show the voter's party affiliation on each list of registered voters on which the voter's name appears.

"Subdivision 2. Where a voter to whom a renewal registration certificate is mailed in the year 1977 or 1979 returns the accompanying change-of-information notice with a notation of party preference, the voter need not return the renewal



certificate for addition of party affiliation and the registrar need not issue a corrected certificate showing the affiliation. However, the registrar shall show the voter's affiliation on each list of registered voters on which the voter's name thereafter appears and on each renewal certificate issued to a voter after the voter's affiliation is entered on the registration records.

"Subdivision 3. During the year 1978, a person who has affiliated with a party by stating a party preference on his application for registration or on a change-of-information notice may not vote in the primaries or participate in the conventions of any other party. When the voter votes in a primary or participates in a precinct convention of a party not holding primaries, the election officer or precinct chairman who accepts the voter shall stamp the party affiliation in the appropriate space on the voter's registration certificate if the name of the party does not already appear on the certificate.

"Subdivision 4. Until February 1, 1980, a person whose party affiliation is recorded on the registration records may change the affiliation at any time except during the period beginning with the 29th day before the general primary election day in 1978 and ending with the day of the succeeding general election, by following the procedure outlined in paragraph (a) of Subdivision 5 of Section 179b (Article 13.01b, Vernon's Texas Election Code)."

Sec. Subsection (a), Section 15, Texas Election Code, as amended (Article 3.01, Vernon's Texas Election Code), is amended to read as follows:

"(a) For county elections. The commissioners court at its July term shall appoint from among the citizens of each election precinct one qualified voter as presiding judge of elections held at the expense of the county in that precinct and one qualified voter as alternate presiding judge, each of whom shall continue to act until his successor is appointed. Whenever a vacancy arises in either of such offices, the commissioners court may fill the vacancy at any regular or special term of court. All orders appointing judges and alternates shall be entered of record. Each presiding judge shall appoint two qualified voters, who are residents of the precinct, to serve as election clerks, and shall appoint for each election as many additional clerks as he deems necessary for the proper conduct of the election, not to exceed the maximum number authorized by the commissioners court. The commissioners court shall fix the maximum number of clerks which may be appointed for each precinct, and may fix different maximums depending on the type of election. The clerks shall be selected from different political parties, when practicable. The chairman of the county executive committee of each of the two parties whose candidate for governor [Governor] received the most votes for governor [Governor] in the last prior general election for that office may submit a list of not less than two qualified nominees who are members of that party to each election judge at least 30 days prior to the date of a general election or 10 days prior to the date of a special election. If any such list is submitted to him, the election judge shall appoint at least one clerk from each list submitted. ~~[For the purpose of this section, the term 'members of that party' means persons who affiliated with the party in the manner prescribed in Section 179a of this code during the last preceding set of primary elections and conventions.]~~"

Sec. . Effective February 1, 1980, paragraph (b), Subdivision 1, Section 32a, Texas Election Code, as amended (Article 4.10, Vernon's Texas Election Code), is amended to read as follows:

"(b) In any special election for a statewide or district office which is regularly filled at the general election for state and county officers, the application shall also set forth the candidate's political party affiliation or shall state that the candidate is not affiliated with any political party. If the candidate is a registered voter, the party affiliation stated in the application must be the

same as that shown on the registration records. If the candidate is not a registered voter, he may not claim to be affiliated with any political party."

Sec. . Paragraphs (a) and (c), Subdivision 3, Section 32a, Texas Election Code, as amended (Article 4.10, Vernon's Texas Election Code), are amended to read respectively as follows:

"(a) The application must be filed with the Secretary of State in the case of a statewide or district special election. It must be accompanied with a fee of \$1,000 for a statewide office, including without limitation the office of United States Senator, a fee of \$500 for the district office of United States Representative, a fee of \$400 for the district office of State Senator, and a fee of \$200 for the district office of State Representative; or, in lieu of the filing fee, the application must be accompanied with a petition signed by at least 5,000 registered voters of the state in the case of a statewide office, and by at least 500 registered voters of the district in the case of a district office. A petition must show the address, voter registration number, and date of signing for each signer. Any voter eligible to vote in the election may sign a petition, without regard to the party affiliation of the candidate or the signer. No person may sign the petition of more than one candidate for the same office, and if a person signs the petition of more than one candidate, the signature is void as to all such petitions. A petition may be in multiple parts. To each part, which may consist of one or more sheets, there must be attached the affidavit of some registered voter, giving his address and voter registration number, and stating that each signature appearing in that part of the petition was affixed in the presence of the affiant and that to the best knowledge and belief of the affiant each signature is genuine and each person signing was a registered voter at the time of signing. A petition so verified is prima facie evidence that the signatures thereon are genuine and that the persons signing it are registered voters. Fees received under this subdivision shall be deposited in the general revenue fund of the state."

"(c) The party affiliation of the candidate shall be printed on the official ballot following the name of the candidate. If the candidate ~~has stated in his application that he~~ is not affiliated with any political party, the word 'Independent' shall be printed on the ballot following the candidate's name. In other respects, the ballot shall be printed as indicated in Section 61 of this code (Article 6.05, Vernon's Texas Election Code) for a special election in which no party nomination has been made."

Sec. . Section 45b, Texas Election Code, as amended (Article 5.13b, Vernon's Texas Election Code), is amended by adding Subdivision 3, to read as follows:

"Subdivision 3. Political party affiliation. In addition to the requirements stated in Subdivision 1 of this section, the application form shall contain a space for listing the applicant's political party affiliation or preference, as provided in Section 179b of this code (Article 13.01b, Vernon's Texas Election Code)."

Sec. . Subdivision 2, Section 46a, Texas Election Code, as amended (Article 5.14a, Vernon's Texas Election Code), is amended by adding paragraph (b-1), to read as follows:

"(b-1) The form provided with a renewal registration certificate for the voter's use in notifying the registrar of changes in registration information shall contain a blank space expressly labeled to be for the purpose of entering a change in the designation of party affiliation. (With the renewal certificates mailed in 1977 and 1979, the blank space shall be for the purpose of making an original designation by those voters who applied for registration before September 1, 1977, and have not yet declared a party preference.) With the initial mailing of the renewal certificates and with the mailing of notices to voters whose renewal certificates are returned undelivered, the registrar shall include a

notice, to be prescribed by the secretary of state, informing the voter of the necessity to be registered as affiliated with a political party in order to vote in primary elections or to participate in other affairs of the party, beginning February 1, 1980, and further informing the voter of the procedure and the deadline dates for making or changing the designation of party affiliation."

Sec. . Effective February 1, 1980, paragraph (a), Subdivision 3, Section 46a, Texas Election Code, as amended (Article 5.14a, Vernon's Texas Election Code), is amended to read as follows:

"(a) Each certificate shall show the voter's name, permanent residence address, mailing address if any, sex, election precinct number, political party affiliation, and if an initial certificate, the effective date of the registration. ~~It shall contain a blank space for political party affiliation of the voter, to be completed as provided in Section 179a, of this code (Article 13.01a, Vernon's Texas Election Code).~~ It shall not show the voter's telephone number or social security number. The certificate shall have a place for the voter's signature, and shall contain or be accompanied by a written instruction to the voter that the certificate is to be signed by the voter personally immediately upon receipt, if the voter is able to sign his name. Each certificate shall clearly indicate the two-year period for which it is issued, and shall contain a statement that the voter shall receive a new certificate every two years so long as such voter does not become disqualified under some provision of the election laws. Each certificate shall contain a statement giving notice that voting by use of the certificate by any person other than the person in whose name the certificate is issued is a felony. Voting by use of certificate which has been issued to another is hereby expressly made a felony of the third degree."

Sec. . Effective February 1, 1980, Subsection (1), Section 51a, Texas Election Code, as amended (Article 5.19a, Vernon's Texas Election Code), is amended to read as follows:

"(1) Before the first day of March each year, the registrar shall prepare for each election precinct of the county a certified list of registered voters who, as of the 30th day prior to March 1 are entitled to registration for the voting year in which March 1 falls. Each precinct list shall be arranged alphabetically by the names of the voters and showing each voter's name, residence address, sex, date of birth, ~~and~~ registration number, and political party affiliation. The registrar shall deliver to each board, executive committee, or other authority having the duty of furnishing supplies for any general, special, or primary election to be held within the county during the voting year for which the list is prepared, one set of such lists for all precincts in the county if any election which may be held by such authority is countywide, and one set of such lists for all precincts wholly or partially within the boundaries of the particular political subdivision if all elections which may be held by such authority are less than countywide. Before the first day of absentee voting in each election, the ~~The~~ registrar shall also furnish to each such authority an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list. When a runoff election is held, before the first day of absentee voting in the runoff election the registrar shall prepare a supplemental list of the voters who will have been registered for 29 days on the day of the election and whose names do not appear on the original list or the supplemental list prepared for the first election. With each supplemental list the registrar shall also furnish a list of persons whose registration information has been changed or corrected or whose registration has been cancelled or transferred to another precinct since preparation of the last set of lists. The authority shall furnish to the presiding judge in each precinct the original and supplemental lists of voters in his precinct at the time it furnishes

other election supplies. Prior to the opening of the polls, the presiding judge shall strike from the registration list the names of persons whose registration has been cancelled or transferred to another precinct, and shall correct the list for persons whose registration information has been changed or corrected."

Sec. . Effective February 1, 1980, Subdivisions 4 and 5, Section 227, Texas Election Code, as amended (Article 13.50, Vernon's Texas Election Code), are amended to read respectively as follows:

"Subdivision 4. No application ~~may~~ shall contain the name of more than one candidate. No person ~~may~~ shall sign the application of more than one candidate for the same office; and if any person signs the application of more than one candidate for the same office, the signature is ~~shall be~~ void as to all such applications. No person ~~may~~ shall sign such application unless he is a qualified voter, and no person may sign an application if during that voting year he has voted in a primary election or participated in a convention of a political party which is making a nomination for the office sought by the independent candidate [who has voted at either the general primary election or the runoff primary election of any party shall sign an application in favor of anyone for an office for which a nomination was made at either such primary election].

"Subdivision 5. In addition to the person's signature, the application shall show each signer's address, the number of his voter registration certificate, and the date of signing. An application may not be circulated for signatures before the 29th day preceding the general primary election. No person who is registered as a member of a political party may sign an application until after the date of the general primary election."

Sec. . Effective February 1, 1980, Section 228, Texas Election Code, as amended (Article 13.51, Vernon's Texas Election Code), is amended to read as follows:

"228. Oath to application

"Subdivision 1. To every person ~~[citizen]~~ who signs such application, there shall be administered the following oath, which shall be reduced to writing and attached to such application: 'I know the contents of the foregoing application; during the current voting year I have not voted in a primary election or participated in a convention of a political party which is making a nomination ~~[I have not participated in the general primary election or the runoff primary election of any party which has nominated, at either such election, a candidate]~~ for the office for which I desire \_\_\_\_\_ (here insert the name of the candidate) to be a candidate, and I will not vote in a primary election or participate in a convention of any such party during the remainder of this voting year; I am a qualified voter at the next general election under the Constitution and laws in force and have signed the above application of my own free will.' One certificate of the officer before whom the oath is taken may be so made as to apply to all to whom it was administered.

"Subdivision 2. Any person who signs an application after having voted in a primary election or participated in a convention of a political party which is making a nomination for the office sought by the independent candidate, or who votes in a primary election or participates in a convention of any such party during the same voting year after having signed the application, is guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$500."

Sec. . Section 231, Texas Election Code, as amended (Article 13.54, Vernon's Texas Election Code), is amended to read as follows:

"231. Nominations by parties without state organization

"Any political party without a state organization desiring to nominate candidates for county and precinct offices only may nominate such candidates

therefor by a county convention held on the second Saturday in May of the election year, which convention shall be composed of delegates from the various election precincts in the county, elected therein at conventions held in such precincts on the first Saturday in May. All nominations made by any such parties shall be certified to the county clerk by the chairman of the county committee of such party, and, after taking the same course as nominations of other parties so certified, shall be printed on the official ballot in a separate column, headed by the name of the party; provided, a written application for such printing shall have been made to the county judge not later than June 30 following the conventions, signed by qualified voters of the county equal in number to at least three per cent of the entire vote cast for governor in such county at the last general election for that office. No person who has voted in a primary election or participated in a convention of any other party during that voting year ~~[is affiliated with any other political party]~~ is eligible to sign the application. The application shall contain the following information with respect to each person signing it: his address, the number of his voter registration certificate, and the date of signing. The application may not be circulated for signatures until after the date of the precinct conventions, and any signatures obtained on or before that date are void. The application may be in multiple parts. To each part there shall be attached an affidavit of the person who circulated it, who must be a registered voter in the county, stating that he witnessed the affixing of each signature, that the correct date of signing is shown on the application, and that to his best knowledge and belief each signature is the genuine signature of the person whose name is signed. An application so verified is prima facie evidence that the signatures thereon are genuine and that the persons signing it are qualified voters of the county."

Sec. . Sections 189a and 226, Texas Election Code (Articles 13.11a and 13.49, Vernon's Texas Election Code), are repealed.

Sec. . The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Pending discussion of the amendment, Senator Howard occupied the Chair.

(President in Chair)

Pending discussion of the amendment, Senator Schwartz occupied the Chair.

(Senator Howard in Chair)

(President in Chair)

Senator Schwartz offered the following substitute for the pending amendment:

Amend SB 1149, Section 4, Line 52 by adding paragraph (c) to read as follows:

"(c) Within 20 days after the date of the runoff primary, the state chairman shall submit to the secretary of state a sworn itemized report of the actual costs incurred by the state chairman and the state executive committee in conducting the primary election or elections (as the case may be) and of any

filing fees not previously reported. If the actual expenditure for an item exceeded the estimated amount, the chairman shall submit an explanation of the reason for the increased expenditure, and the secretary of state shall allow the increase if good cause is shown. The secretary of state shall certify to the comptroller the difference between the total amount payable out of state funds and the amount which has already been transmitted to the chairman. If the total amount of fees retained and the payments from the state exceed the actual expenditures incurred, the chairman shall retain the difference, to be used as a beginning balance on hand for the next ensuing primary conducted by the party or to defray expenses incurred in the conduct of the party's conventions or other functions authorized or mandated by this code. The state executive committee shall maintain an itemized record of the expenditures of excess retained fees."

The substitute for the pending amendment was read.

Pending discussion of the amendment, Senator Jones of Taylor occupied the Chair.

Question - Shall the substitute for the pending amendment be adopted?

(President in Chair)

**Wednesday, May 16, 1979**

Senator Clower raised the Point of Order that it was 12:05 o'clock a.m., Wednesday, May 16, 1979, a House Bill Day in the Senate and that **S.B. 1149** could not be considered further.

The President sustained the Point of Order, stating it was House Bill Day in the Senate.

#### **HOUSE BILL 409 ON SECOND READING**

Senator Meier moved to suspend all necessary rules to take up for consideration at this time:

**H.B. 409**, Relating to the rate of interest on loans secured by certain residential property.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Andujar, Blake, Brooks, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Short, Snelson, Tracger, Williams.

Nays: Clower, Kothmann, Longoria, Mauzy, Patman, Schwartz, Truan, Vale.

Absent: Braecklein, Santiesteban.

The bill was read second time.

Senator Meier offered the following committee amendment to the bill:

Amend House Bill 409 by striking everything after the enacting clause and inserting the following:

Section 1. Article 1.07, Title 79, Revised Civil Statutes of Texas 1925 as amended (Article 5069-1.07 Vernon's Texas Civil Statutes), is amended by adding Subsection (d) reading as follows:

(d)(1) On any loan or agreement to loan secured or to be secured in whole or in part by a lien, mortgage, security interest or other interest in or with respect to real property on which is located one or more single family dwellings, or dwelling units for not more than four families in the aggregate, interest may be charged at such rates as may be permitted by other applicable law or at the lesser of the following rates:

(i) twelve percent (12%) per annum; or

(ii) A rate equivalent to the average per annum market yield rate adjusted to constant maturities on ten-year United States Treasury Notes and Bonds as published by the Board of Governors of the Federal Reserve System for the second calendar month preceding the month in which the lender becomes legally bound to make the loan plus an additional two percent (2%) per annum rounded off to the nearest quarter of one percent per annum.

A dwelling unit shall mean for the purpose of this section a unified combination of rooms that is designed for residential use by one family.

(2) Before the twentieth (20th) day of each month the Savings and Loan Commissioner shall ascertain the average per annum market yield rate adjusted to constant maturities on ten-year United States Treasury Notes and Bonds for the preceding calendar month and cause such rate to be published in the Texas Register.

(3) The interest rates authorized by this subsection shall not be applicable to any loan made on or after September 1, 1981 unless the lender had become legally bound to make such loan prior to such date.

(4) No prepayment charge or penalty may be collected on any loan transaction of the class defined in (d)(1) bearing a rate of interest in excess of that authorized by Article 1.04 Title 79, Revised Civil Statutes 1925 except where such collection is required by an agency created by federal law.

Section 2. The Savings and Loan Section of the Finance Commission and the Savings and Loan Commissioner are hereby directed to exercise the rule making powers delegated to them by law and promulgate specific rules and regulations with respect to the procedure to be followed in making variable interest rate real estate loans by savings and loan associations subject to the Texas Savings and Loan Act.

Section 3. In the event that the floating rate provisions of Section 1 of this Act are held to be unconstitutional, then Article 1.07, Title 79, Revised Civil Statutes of Texas 1925 as amended, Article 5069-1.07, Vernon's Texas Civil Statutes) is amended by adding a new subsection (d) in lieu thereof to read as follows.

(d)(1) On any loan or agreement to loan secured or to be secured in whole or in part by a lien, mortgage, security interest or other interest in or with respect to real property on which is located one or more single family dwellings, or dwelling units for not more than four families in the aggregate, interest may be charged at the rate of twelve percent (12%) per annum. A dwelling unit shall mean for the purpose of this section a unified combination of rooms that is designed for residential use by one family.

(2) The interest rates authorized by this subsection shall not be applicable to any loan made on or after September 1, 1981 unless the lender had become legally bound to make such loan prior to such date.

Section 4. Article 1.07, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.07, Vernon's Texas Civil Statutes), is amended by adding subsection (e) to read as follows:

(e)(1) In this sub-section "Financial institution" means a state bank, state savings and loan association, mortgage banking institution, credit union, national bank, or federal savings and loan association and "Housing accommodation" means improved or unimproved real property, or a portion of that property, that is used or occupied or is intended, arranged, or designed to be used or occupied as the residence of one or more individuals.

(2) A financial institution may not charge interest under sub-section (d), Section 1 or sub-section (d) of Section 3 of this act and the maximum rate of interest that it may charge is limited to ten percent (10%) if the financial institution in connection with such loan discriminates in providing or granting financial assistance to purchase, rehabilitate, improve, or refinance a housing accommodation due, in whole or in part, to the consideration of:

(i) conditions, characteristics, or trends in the neighborhood where the property is located, unless the financial institution can demonstrate that such a consideration in the particular case is required to avoid an unsafe or unsound business practice; or

(ii) race, color, religion, sex, marital status, national origin, or ancestry; or in appraising a housing accommodation or in determining whether or not, or under what terms and conditions, to provide financial assistance to purchase, rehabilitate, improve, or refinance a housing accommodation, considers:

(i) the racial, ethnic, religious, or national origin composition of the neighborhood or geographic area surrounding the property; or

(ii) Whether or not that composition is undergoing change, or is expected to undergo change.

Section 5. If any provision of this Act or any rate of interest fixed hereby is held invalid, such invalidity shall not affect any other provision of this Act which can be given effect without the invalid provision and the Legislature hereby declares it would have passed such valid provisions despite such invalidity.

Section 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The committee amendment was read.

Senator Clower offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **H.B. 409** by renumbering sections 1 through 6 as Sections 2 through 7, and adding a new section 1 to read as follows:

SECTION 1. Article 1.07, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.07, Vernon's Texas Civil Statutes), is amended by adding Section (f) to read as follows:

(f) The provisions of Section (d) shall not be applicable to any conventional loan or agreement in which discount points are charged to the seller as consideration for the loan or agreement.



The amendment to the committee amendment was read.

On motion of Senator Meier, the amendment to the committee amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Vale.

Absent: Braecklein, McKnight.

Question - Shall the committee amendment be adopted?

Senator Parker offered the following amendment to the bill:

Amend HB 409 by striking:

“providing for a rate of interest in excess of that authorized by Article 1.04, Title 79, Revised Civil Statutes of Texas, 1925.” beginning on line 15, page 3 and line 42, page 3.

The amendment was read.

On motion of Senator Meier, the amendment was tabled by the following vote: Yeas 17, Nays 13.

Yeas: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger.

Nays: Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Vale, Williams.

Absent: Braecklein.

Senator Patman offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **H.B. 409** by renumbering sections 1 through 6 as Sections 2 through 7, and adding a new section 1 to read as follows:

SECTION 1. Article 1.07(a), Title 79, Revised Civil Statutes of Texas, 1925 (Article 5069-1.07, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) On any loan or agreement to loan secured or to be secured, in whole or in part, by a lien, mortgage, security interest, or other interest in or with respect to any interest in real property, determination of the rate of interest for the purpose of determining whether the loan is usurious under all applicable Texas laws shall be made by totaling the amount of interest ~~[amortizing, prorating, allocating, and spreading, in equal parts during the period of the full stated term of the loan, all interest at any time]~~ contracted for, charged, or received from the borrower in connection with the loan during any 12-month

~~period. [However, in the event the loan is paid in full by the borrower prior to the end of the full stated term of the loan and the interest received for the actual period of the existence of the loan exceeds the maximum lawful rate, the lender contracting for, charging, or receiving all such interest shall refund to the borrower the amount of the excess or shall credit the amount of the excess against amounts owing under the loan and shall not be subject to any of the penalties provided by law for contracting for, charging, or receiving interest in excess of the maximum lawful rate.]~~ On such a loan or agreement, a lender may not require a borrower to pay interest in a lump sum before or immediately on receipt of a loan and may not charge or receive from a seller of real property any fee that affects the ability of the buyer to obtain the loan.

The amendment to the committee amendment was read.

On motion of Senator Meier, the amendment to the committee amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Andujar, Blake, Brooks, Creighton, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Vale.

Absent: Braecklein, Farabee.

Senator Schwartz offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **H.B. 409** by renumbering sections 1 through 6 as sections 2 through 7, and adding a new section 1 to read as follows:

SECTION 1. Article 1.07(a), Title 79, Revised Civil Statutes of Texas, 1925 (Article 5069-1.07, Vernon's Texas Civil Statutes), is amended to read as follows:

(a)(1) Except as provided by Subsection (2) of this section, on [On] any loan or agreement to loan secured or to be secured, in whole or in part, by a lien, mortgage, security interest, or other interest in or with respect to any interest in real property, determination of the rate of interest for the purpose of determining whether the loan is usurious under all applicable Texas laws shall be made by amortizing, prorating, allocating, and spreading, in equal parts during the period of the full stated term of the loan, all interest at any time contracted for, charged, or received from the borrower in connection with the loan. However, in the event the loan is paid in full by the borrower prior to the end of the full stated term of the loan and the interest received for the actual period of the existence of the loan exceeds the maximum lawful rate, the lender contracting for, charging, or receiving all such interest shall refund to the borrower the amount of the excess or shall credit the amount of the excess against amounts owing under the loan and shall not be subject to any of the penalties provided by law for contracting for, charging, or receiving interest in excess of the maximum lawful rate.

(2) On any loan or agreement to loan of the type described by Section (d) of this article, determination of the rate of interest for the purpose of determining whether the loan is usurious under all applicable Texas laws shall be

made by totaling the amount of interest contracted for, charged, or received from the borrower in connection with the loan during any 12-month period. On such a loan or agreement, a lender may not require a borrower to pay interest in a lump sum before or immediately on receipt of a loan.

The amendment to the committee amendment was read.

On motion of Senator Meier, the amendment to the committee amendment was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Short, Truan, Vale.

Absent: Braecklein.

Senator Clower offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **H.B. 409** by renumbering sections 5 through 6 as sections 6 through 7, and adding a new section 5 to read as follows:

SECTION 5. (a) At the general election on November 6, 1979, the voters shall be permitted to vote for or against the proposition: "The 1979 law increasing the maximum interest rate on residential mortgage loans shall continue in effect."

(b) The proposition shall be printed on the ballot beneath the proposed constitutional amendments under the heading: "Referendum Proposition." Beneath this heading shall be printed the following: "The result of this referendum determines whether the 1979 law that increased the maximum interest rate on residential mortgage loans will continue in effect."

(c) Notice of the election shall be given by inclusion of the proposition in the proclamation by the governor ordering the election on the proposed amendments to the state constitution and in the notice of that election given by each county judge.

(d) Returns of the votes cast on the proposition shall be made and canvassed in the same manner as the returns on the proposed constitutional amendments.

(e) If a majority of the qualified voters voting on the question do not vote in favor of continuing in effect the then current law fixing the maximum interest rate on residential mortgage loans, on June 1, 1980, Article 1.07, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.07, Vernon's Texas Civil Statutes), is amended by adding Section (f) to read as follows:

(f) Section (d) of this article does not apply to a loan made on or after June 1, 1980. On a loan of the type described by Section (d) that is made on or after that date, interest may not be charged at a rate greater than 10 percent per annum unless a different rate is provided by other applicable law. For the purposes of this section, a loan is made on the date that the note is executed.

The amendment to the committee amendment was read.

On motion of Senator Meier, the amendment to the committee amendment was tabled by the following vote: Yeas 20, Nays 10.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Clower, Doggett, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Vale.

Absent: Braecklein.

Question - Shall the committee amendment be adopted?

#### **CONFERENCE COMMITTEE REPORT HOUSE BILL 1418**

Senator Short submitted the following Conference Committee Report:

Austin, Texas  
May 9, 1979

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1418** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHORT  
WILLIAMS  
VALE  
PRICE  
On the part of the Senate

RUDD  
EZZELL  
LEWIS  
HENDERSON  
On the part of the House

#### **A BILL TO BE ENTITLED**

#### **AN ACT**

relating to the transportation of certain agricultural commodities in their natural state.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**  
SECTION 1. Chapter 314, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 911b, Vernon's Texas Civil Statutes), is amended by adding Section 5b to read as follows:

Sec. 5b. (a) A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to obtain a certificate of convenience and necessity if he holds a seasonal agricultural license issued by the Commission. A person holding a seasonal agricultural license may transport eligible agricultural commodities only from the place where the commodities are produced and harvested to the first processor. A holder of a seasonal agricultural license may also transport cotton and cottonseed from a cotton gin to the next processor or point of storage. This transportation may not exceed a distance of seventy-five (75) miles, and must be in intrastate commerce. Agriculture commodities in their natural state include those commodities produced and harvested on a farm which must be transported to storage or a first processor, but do not include the manufactured products of agricultural commodities, nor do they include livestock, milk, wool, mohair, or timber in its natural state.

(b) The Commission may issue a seasonal agricultural license to a person who files an application meeting the requirements of this Act if the motor vehicles to be used in the transportation have no more than three axles each and are not used for carrying any other property or passengers for compensation.

(c) The Commission may issue seasonal agricultural licenses without notice, hearing, or proof of public convenience and necessity. Each license is valid for one hundred twenty (120) days from the date of issuance unless a shorter period is requested by the applicant.

(d) An application for a seasonal agricultural license must include:

(1) the applicant's full name and address;

(2) a complete list of all motor vehicles proposed to be used, including the make, unit number, and identification number of each vehicle; and

(3) A sworn statement by the applicant that he will transport under the license only those agricultural commodities eligible to be transported under this section and will transport them only in intrastate commerce.

(e) A seasonal agricultural license may not be sold, assigned, inherited, or otherwise transferred.

(f) An application for a seasonal agricultural license must be accompanied by a Twenty-five Dollar (\$25) filing fee, which shall be retained by the Commission whether or not the license is granted. This fee covers up to five (5) motor vehicles. If the license is to cover more than five (5) motor vehicles, the applicant shall pay at the time the license is issued an additional fee of Five Dollars (\$5) for each motor vehicle in excess of five (5) to be operated under the license.

(g) The issuance of seasonal agricultural licenses is exempt from the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and from the requirements of Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

(h) The Commission shall issue to each licensee an identification card for each motor vehicle covered by the license. The card must be displayed within the cab of the vehicle. The card shall include the license number and the name and address of the owner of the license. A person may not use an identification card after the license has expired. The Commission shall prescribe the form for the identification card and may include additional information on the card.

(i) This section does not apply to any person transporting in the person's own vehicle agricultural commodities in their natural state, which that person owns, to and from the area of production and to and from the market or place of storage thereof.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

### MESSAGE FROM THE HOUSE

House Chamber  
May 15, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 530.

House Conferees: Hall, Thompson, Cary, Caraway, Cain.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 350.

House Conferees: Atkinson, Chairman; Peveto, Blanton, Coleman, Davis.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### HOUSE BILL 409 ON SECOND READING

The Senate resumed consideration of **H.B. 409** on its second reading and passage to third reading with a committee amendment pending.

Question - Shall the committee amendment be adopted?

Senator Patman offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **H.B. 409** by striking "two percent (2%)" on page 1, line 25 of the printed version thereof, and substituting therefor "one and one-half percent (1 1/2%)".

The amendment to the committee amendment was read.

On motion of Senator Patman and by unanimous consent, the amendment to the committee amendment was withdrawn.

Senator Patman offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to H.B. No. 409 by striking Section 3 and inserting a new Section 3 to read as follows:

SECTION 3. (a) The floating rate provided by Article 1.07(d)(1)(ii), Title 79, Revised Civil Statutes of Texas, 1925, as amended, is not severable from the remainder of Article 1.07(d). If the floating rate is held invalid for any reason by a final judgment of a court of competent jurisdiction, the remainder of Article 1.07(d) is invalid.

(b) A loan that is made pursuant to Article 1.07(d) on or after the date it takes effect but before it is held invalid by a final judgment of a court of competent jurisdiction and that provides a rate of interest that would not have been permitted under other law shall be treated for all purposes, including application of penalties for usury, as if the loan agreement had provided for interest at the rate of 10 percent per annum and had permitted prepayment of principal without penalty. Any interest in excess of 10 percent per annum that was paid on the loan before the judgment became final shall be treated as a prepayment of principal, and shall be so credited as of the date the excess interest was paid. Remaining payments shall be recomputed according to the new principal and the remaining term of the loan.

The amendment to the committee amendment was read.

Senator Meier moved the Previous Question on the adoption of the committee amendment, the amendment to the committee amendment and on passage of the bill to third reading.

The motion was duly seconded by Senators Jones of Taylor, Creighton, Ogg, Moore and Andujar.

The Previous Question was ordered by the following vote: Yeas 17, Nays 12.

Yeas: Andujar, Blake, Brooks, Creighton, Farabec, Harris, Howard, Jones of Taylor, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Tracer, Williams.

Nays: Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Snelson, Truan, Vale.

Absent: Braecklein, McKnight.

Pending discussion of the amendment to the committee amendment, Senator Howard occupied the Chair.

(Senator Ogg in Chair)

Pending discussion of the amendment to the committee amendment, Senator Blake occupied the Chair.

(Senator Snelson in Chair)

Question - Shall the amendment to the pending committee amendment be adopted?

**REQUEST FOR PERMISSION FOR THE COMMITTEE ON  
INTERGOVERNMENTAL RELATIONS TO MEET**

Senator Blake requested permission for the Committee on Intergovernmental Relations to meet while the Senate was in session.

There was objection and the request was denied.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 16, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT  
THE HOUSE HAS PASSED THE FOLLOWING:

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 436 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1662 by a vote of 111 Ayes, 0 Noes.

**H.C.R. 203** expressing dissatisfaction with the operation of the Capitol coffee shop

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**HOUSE BILL 409 ON SECOND READING**

The Senate resumed consideration of **H.B. 409** on its second reading and passage to third reading with an amendment by Senator Patman to a committee amendment pending.

Question - Shall the amendment to the pending committee amendment be adopted?

(Senator Brooks in Chair)

Pending discussion of the amendment to the pending committee amendment, Senator Jones of Harris occupied the Chair.

(Senator Mengden in Chair)

Question - Shall the amendment to the pending committee amendment be adopted?



**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

**H.B. 508**  
**H.B. 779**  
**H.B. 845**  
**H.B. 1115**  
**H.B. 1175**  
**H.B. 1431**  
**H.B. 1787**  
**H.C.R. 81**  
**H.C.R. 164**  
**H.C.R. 201**  
**H.C.R. 202**

**MESSAGE FROM THE HOUSE**

House Chamber  
May 16, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT  
THE HOUSE HAS PASSED THE FOLLOWING:

HB 446, A bill to be entitled An Act relating to the appointment of  
campaign treasurers and assistant campaign treasurers.

HB 448, A bill to be entitled An Act relating to the requirement of  
possession of hunting and fishing licenses.

HB 951, A bill to be entitled An Act relating to the disposition of funds  
collected or received by certain state agencies.

HB 1309, A bill to be entitled An Act relating to establishing standards for  
the accreditation of librarians and standards for libraries in public schools.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**REQUEST FOR PERMISSION FOR  
COMMITTEE ON STATE AFFAIRS TO MEET**

Senator Moore requested the Committee on State Affairs be granted  
permission to meet while the Senate was in session.

There was objection and the request was denied.

**HOUSE BILL 409 ON SECOND READING**

The Senate resumed consideration of **H.B. 409** on its second reading and passage to third reading with an amendment by Senator Patman to a committee amendment pending.

Question - Shall the amendment to the pending committee amendment be adopted?

Senator Patman called for a full reading of the amendment to the pending committee amendment.

The Secretary of the Senate read the amendment in its entirety.

Question - Shall the amendment to the pending committee amendment be adopted?

**MESSAGE FROM THE HOUSE**

House Chamber  
May 16, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 659, A bill to be entitled An Act relating to persons required to register as lobbyists.

HB 1096, A bill to be entitled An Act relating to controlled substances; amending the Texas Controlled Substances Act

HB 1389, A bill to be entitled An Act relating to student service fees; amending Subsection (b), Section 54.503, Texas Education Code; raising the maximum allowable total compulsory student service fees; providing for severability; repealing all laws in conflict; and declaring an emergency.

HB 1426, A bill to be entitled An Act relating to a student center fee at Southwest Texas State University.

HB 1451, A bill to be entitled An Act relating to termination of guardianship of deceased wards and payment of a ward's funeral expenses.

HB 1455, A bill to be entitled An Act relating to refunding bonds, and providing alternate and additional authority, procedures, and methods to governmental entities for issuing and selling refunding bonds and/or making deposits in connection with paying or redeeming revenue obligations so as to cause the discharge and final payment or redemption of revenue obligations with or without the issuance of refunding bonds.

HB 1738, A bill to be entitled An Act relating to the use of monofilament nets in salt water; providing a penalty.

HB 1788, A bill to be entitled An Act relating to municipal annexation.

HB 1906, A bill to be entitled An Act relating to the use of authorized but unissued school district bonds.

HB 1924, A bill to be entitled An Act relating to suspension of a driver's license and employment of a person without a license.

HB 2104, A bill to be entitled An Act relating to assistance to voters in preparing their ballots; providing criminal penalties.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### **HOUSE BILL 409 ON SECOND READING**

The Senate resumed consideration of **H.B. 409** on its second reading and passage to third reading with an amendment by Senator Patman to a committee amendment pending.

Question - Shall the amendment to the pending committee amendment be adopted?

Pending discussion of the amendment to the pending committee amendment, Senator Andujar occupied the Chair.

(President in Chair)

Question - Shall the amendment to the pending committee amendment be adopted?

#### **MESSAGE FROM THE HOUSE**

House Chamber  
May 16, 1979

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 1612, A bill to be entitled An Act relating to the method of competitive bidding in the award of contracts for the construction, alteration or repair of public works; and declaring an emergency.

HB 1845, A bill to be entitled An Act relating to the state treasurer's records and reports concerning time and demand deposits of state funds.

HB 13, A bill to be entitled An Act relating to certificates of title for construction equipment.

HB 233, A bill to be entitled An Act relating to acquisition, development, operation, and maintenance of parks, recreational areas, and open space areas in urban areas and to the creation and use of the Texas local parks, recreation, and open space fund.

HB 2184, A bill to be entitled An Act relating to the establishment, jurisdiction, and operation of municipal courts of record in the City of San Antonio; providing for municipal judges and other personnel of the courts; prescribing rules and procedures for the municipal courts of record and for appeals from a municipal court of record; prescribing the effect of the appellate court's ruling; conforming the criminal jurisdiction of other courts to that of the municipal courts of record; and restricting the use of evidence from proceedings in municipal courts.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### **BILLS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills:

**H.B. 436**  
**H.B. 1662**

#### **HOUSE BILL 409 ON SECOND READING**

The Senate resumed consideration of **H.B. 409** on its second reading and passage to third reading with an amendment by Senator Patman to a committee amendment pending.

Question - Shall the amendment to the pending committee amendment be adopted?

#### **HOUSE BILL 409 ON SECOND READING**

The Senate resumed consideration of **H.B. 409** on its second reading and passage to third reading.

Question - Shall the amendment to the pending committee amendment be adopted?

The amendment by Senator Patman to the pending committee amendment failed of adoption by the following vote: Yeas 11, Nays 19.

Yeas: Bracklein, Clower, Doggett, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Valc.

Nays: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Price, Short, Snelson, Traeger, Williams.

Absent: Santiesteban.

Question recurring on the adoption of the committee amendment, the committee amendment was adopted.

### **RECORD OF VOTES**

Senators Schwartz and Clower asked to be recorded as voting "Nay" on the adoption of the committee amendment.

On motion of Senator Meier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 21, Nays 9.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Doggett, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Short, Snelson, Traeger, Williams.

Nays: Clower, Farabee, Kothmann, Longoria, Mauzy, Patman, Schwartz, Truan, Vale.

Absent: Santiesteban.

### **MEMORIAL RESOLUTION**

**S.R. 568** - By Doggett: Memorial resolution for The Honorable Herbert A. Yarbrough, Jr.

### **WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 81** - (Doggett): Extending congratulations to Southwest Texas State University on 75th anniversary.

**H.C.R. 201** - (Brooks): Extending congratulations to The Honorable Jim Clark.

**H.C.R. 202** - (Parker): Extending congratulations to The Honorable Price Daniel, Sr.

**S.R. 564** - By Doggett: Extending congratulations to second grade class of Casis School for art display of Texas wildflowers in Capitol.

**S.R. 566** - By Mauzy: Proclaiming May, 1979, as "Better Hearing and Speech Month in Texas".

**S.R. 567** - By Ogg: Extending congratulations to Fingal Arthur McGinnis.

**S.R. 569** - By Clower: Extending welcome to The Reverend Mickey M. Loftis.

**S.R. 570** - By Clower: Extending welcome to Miss Jeanne Loftis.

**S.R. 571** - By Clower: Extending welcome to Lee Banks Smith.